



## Treasury Inspector General for Tax Administration

### FISCAL YEAR 2007 STATUTORY AUDIT OF COMPLIANCE WITH NOTIFYING TAXPAYERS OF THEIR RIGHTS WHEN REQUESTED TO EXTEND THE ASSESSMENT STATUTE

Issued on August 31, 2007

## Highlights

Highlights of Report Number: 2007-40-167 to the Internal Revenue Service Deputy Commissioner for Services and Enforcement

### IMPACT ON TAXPAYERS

The Internal Revenue Service (IRS) is required to notify taxpayers of their rights when requesting an extension of the statute of limitations for assessing additional taxes and penalties. Based on the results of our sample, TIGTA believes the IRS is generally complying with the intent of the statute. However, there were still some instances in which IRS employees did not document whether taxpayers and their representatives were advised of these rights.

### WHY TIGTA DID THE AUDIT

This audit was initiated because TIGTA is required under Internal Revenue Code Section 7803(d)(1)(C) to annually report on the IRS' compliance with Internal Revenue Code Section 6501(c)(4)(B). This provision requires the IRS to provide notice to taxpayers of their rights to decline to extend the assessment statute of limitations or to request that any extension be limited to specific issues or a specific period of time.

In passing this law, Congress expressed concern that taxpayers were not being advised adequately of their rights.

### WHAT TIGTA FOUND

Adequate documentation was not always in the related case files to show that taxpayers were advised of their rights regarding assessment statute extensions. In our statistical sample of 203 tax returns, 23 (11.3 percent) of the related case files reviewed did not contain adequate documentation to support that the taxpayers had been advised of their rights regarding assessment statute extensions. Also, of the 126 case files with authorizations for third-party representation, 14 (11.1 percent) did not contain documentation that representatives were

separately notified of the written communications advising taxpayers of their rights.

### WHAT TIGTA RECOMMENDED

TIGTA recommended the Deputy Commissioner for Services and Enforcement ensure a memorandum is issued reminding IRS employees of their responsibility to document the assessment statute extension notification of rights in every taxpayer case file when dealing with taxpayer representatives.

In their response to the report, IRS officials stated they agreed with the recommendation. Management plans to issue a memorandum to remind examiners that they should provide to both the taxpayer and the authorized representative copies of all notices and other written communications, unless the taxpayer specifies otherwise, and the case file is to be documented accordingly.

However, the IRS continues to disagree that it has a responsibility to notify the taxpayer in addition to the taxpayer's authorized representative when informing the parties of the taxpayer's rights regarding the assessment statute extension. The IRS believes (1) the law governing principals and agents provides that the authorized representative acts for the principal based on the authority vested in the agent by the principal should apply and (2) it has fulfilled its responsibility to the taxpayer by notifying the taxpayer's representative.

TIGTA maintains its position that the IRS should send notification to the taxpayer even if the taxpayer has an authorized representative. The IRS' own internal procedures and *Practice Before the IRS and Power of Attorney* (IRS Publication 947) require that notification be made to the taxpayer and the taxpayer's representative. While a taxpayer may permit an authorized representative to receive IRS notifications *in addition to* the notice required to be provided to the taxpayer, the taxpayer may not designate that the representative receive notifications *instead of* the taxpayer.

### READ THE FULL REPORT

To view the report, including the scope, methodology, and full IRS response, go to:

<http://www.treas.gov/tigta/auditreports/2007reports/200740167fr.pdf>.