



Treasury Inspector General for Tax Administration Office of Audit

FISCAL YEAR 2009 STATUTORY AUDIT OF COMPLIANCE WITH LEGAL GUIDELINES RESTRICTING THE USE OF RECORDS OF TAX ENFORCEMENT RESULTS

Issued on June 30, 2009

Highlights

Highlights of Report Number: 2009-30-091 to the Internal Revenue Service Deputy Commissioner for Operations Support.

IMPACT ON TAXPAYERS

Internal Revenue Service (IRS) Restructuring and Reform Act of 1998 (RRA 98) Section 1204 requires the IRS to ensure that managers do not evaluate enforcement employees using any record of tax enforcement results (ROTTER) or base employee successes on meeting production goals and quotas. Based on the results of our sample, TIGTA believes the IRS' efforts to enforce the employee evaluation requirements under Section 1204 are generally effective and are helping to protect the rights of taxpayers. However, in our last two audits, the IRS has not achieved full compliance with Section 1204, and this heightens our concern that the IRS is moving in a direction away from achieving full compliance with Section 1204 and ensuring the rights of all taxpayers are protected in the future.

WHY TIGTA DID THE AUDIT

This audit was initiated because TIGTA is required under Internal Revenue Code Section 7803(d)(1)(2000) to annually evaluate whether the IRS is in compliance with restrictions on the use of enforcement statistics under RRA 98 Section 1204.

- Section 1204(a) prohibits the IRS from using any record of tax enforcement result to evaluate employees or to impose or suggest production quotas or goals.
- Section 1204(b) requires that employees be evaluated using the fair and equitable treatment of taxpayers as a performance standard.
- Section 1204(c) requires each appropriate supervisor to self-certify quarterly whether tax enforcement results were used in a prohibited manner.

Email Address: inquiries@tigta.treas.gov
Web Site: <http://www.tigta.gov>

WHAT TIGTA FOUND

The IRS did not achieve full compliance with Section 1204(a) requirements. TIGTA identified violations of RRA 98 Section 1204(a) in 7 (1 percent) of the 601 employee or manager performance evaluation documents reviewed. In all seven violations, TIGTA found documentation that managers included ROTERs in the employees' performance evaluation documents, evaluated employees on the fair and equitable treatment of taxpayers, and prepared quarterly self-certifications showing that ROTERs were not used to evaluate employees.

WHAT TIGTA RECOMMENDED

TIGTA recommended that the Deputy Commissioner for Operations Support ensure that Section 1204 violations are reviewed with the managers and they are provided remedial training, using the appropriate internal guidelines, to address their understanding of ROTERs. In addition, the Deputy Commissioner should strengthen the IRS' efforts to achieve full compliance with RRA 98 Section 1204 procedures by ensuring that managers are aware of and use internal guidelines when preparing and reviewing performance evaluations.

In their response to the report, IRS management disagreed with six of the seven potential violations identified. Regarding the one violation, IRS management responded that the violation was addressed with the manager. Also, management responded that IRS employees are trained in the latest Section 1204 requirements throughout the year, and the IRS uses these training opportunities to raise manager awareness and understanding of the requirement.

IRS management disagreed that the ROTERs TIGTA identified in employee self-assessments violate RRA 98 Section 1204(a). However, our position is that a self-assessment containing ROTERs violates RRA 98 Section 1204(a) when the self-assessment is adopted by a manager in the evaluation. Furthermore, when ROTERs appear in managerial self-assessments, they raise an inference that Section 1204(a) has been violated. Self-assessments are a fundamental part of the evaluation process for managers and executives, who complete self-assessments and provide them to their managers for consideration when preparing their annual appraisals. In our experience, the self-assessments are usually associated with the annual appraisals. Quite often, self-assessments are attached to and, in effect, become part of the annual appraisals.

READ THE FULL REPORT

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

<http://www.treas.gov/tigta/auditreports/2009reports/200930091fr.pdf>

Phone Number: 202-622-6500