



Treasury Inspector General for Tax Administration Office of Audit

FISCAL YEAR 2009 STATUTORY AUDIT OF COMPLIANCE WITH LEGAL GUIDELINES PROHIBITING THE USE OF ILLEGAL TAX PROTESTER AND SIMILAR DESIGNATIONS

Issued on May 28, 2009

Highlights

Highlights of Report Number: 2009-40-078 to the Internal Revenue Service Deputy Commissioner for Services and Enforcement and Deputy Commissioner for Operations Support.

IMPACT ON TAXPAYERS

Congress enacted Internal Revenue Service (IRS) Restructuring and Reform Act of 1998 (RRA 98) Section 3707 to prohibit the IRS from labeling taxpayers as Illegal Tax Protesters or any similar designations. Employees continue to refer to taxpayers by these designations in case narratives. Using Illegal Tax Protester or other similar designations may stigmatize taxpayers and may cause employee bias in future contacts with these taxpayers.

WHY TIGTA DID THE AUDIT

This audit was initiated because TIGTA is required to annually evaluate compliance with the prohibition against using Illegal Tax Protester or similar designations. Prior to enactment of the RRA 98, the IRS used the Illegal Tax Protester Program to identify individuals and businesses using methods that were not legally valid to protest the tax laws. IRS employees referred taxpayers to the Illegal Tax Protester Program when their returns or correspondence contained specific indicators of noncompliance with the tax law, such as the use of arguments that had been repeatedly rejected by the courts.

Congress enacted the prohibition against Illegal Tax Protester designations because it was concerned that some taxpayers were being permanently labeled as Illegal Tax Protesters even though they had subsequently become compliant with the tax laws. The label could bias IRS employees and result in unfair treatment.

The purpose of our audit was to determine whether the IRS complied with RRA 98 Section 3707 and internal guidelines that prohibit officers and employees from referring to taxpayers as Illegal Tax Protester and similar designations.

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WHAT TIGTA FOUND

The IRS has not reintroduced past Illegal Tax Protester codes or similar designations on taxpayer accounts. In addition, IRS publications and the Internal Revenue Manual no longer contain any Illegal Tax Protester references. However, TIGTA found that out of approximately 65.3 million records and cases, there were 324 instances in which 263 employees had referred to taxpayers as "Tax Protester," "Illegal Tax Protester," "Constitutionally Challenged," or other similar designations in case narratives on the computer systems analyzed.

WHAT TIGTA RECOMMENDED

TIGTA made no recommendations in this report. In their response to a draft of this report, IRS management stated they continue to discourage the use of Illegal Tax Protester or similar designations in casework. Further, IRS management stated there are no indications that the use of Illegal Tax Protester or similar designation has affected the way in which the IRS deals with taxpayers who disapprove of the tax system. Because these taxpayers are treated in the same manner and given the same rights as any other taxpayer, the IRS does not believe that the rights of the taxpayers related to the 324 instances we identified were affected.

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/200940078fr.pdf>

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