# TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION

# *Most Unpaid Taxes of Participants in the Troubled Asset Relief Program Have Been Resolved*

**April 28, 2010**

**Reference Number: 2010-30-050**

This report has cleared the Treasury Inspector General for Tax Administration disclosure review process and information determined to be restricted from public release has been redacted from this document.

**Redaction Legend:**

1 = Tax Return/Return Information

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# HIGHLIGHTS

**MOST UNPAID TAXES OF PARTICIPANTS IN THE TROUBLED ASSET RELIEF PROGRAM HAVE BEEN RESOLVED**

# Highlights

**Final Report Issued on April 28, 2010**

Highlights of Reference Number: 2010-30-050 to the Internal Revenue Service Commissioners for the Large and Mid-Size Business Division and the Small Business/Self-Employed Division.

## IMPACT ON TAXPAYERS

The Troubled Asset Relief Program is a large expenditure of public funds that required participants to indicate in agreements with the United States Department of the Treasury that all material Federal taxes were paid. However, the fact that some participants had unpaid taxes when the agreements were executed could jeopardize the public's confidence and trust in the performance and accountability of our Federal Government.

## WHY TIGTA DID THE AUDIT

This audit was initiated because of concerns raised over the unpaid taxes of some participants in the Troubled Asset Relief Program. The audit objectives included determining 1) the amount and type of Federal tax debt owed by participants, 2) whether participants with unpaid Federal taxes were engaged in abusive tax activities, and 3) the actions underway to enforce compliance or pursue collection of unpaid taxes from the participants.

## WHAT TIGTA FOUND

Internal Revenue Service (IRS) records showed 130 of the 558 institutions included in this audit had unpaid taxes totaling $530.8 million when agreements were signed by the Department of the Treasury's Assistant Secretary for Financial Stability and the institutions' representatives. However, IRS records also showed that 97 percent of the unpaid taxes were resolved by December 2009.

In considering the significance of the unpaid taxes, it is important to recognize that when the agreements were signed, the Department of the Treasury was in the beginning stages of establishing the Troubled Asset Relief Program to address the serious economic conditions threatening the stability of our nation's financial system. As a result, the focus on stabilizing the financial system may have taken priority over establishing the controls needed to identify unpaid taxes so that the impact of the liabilities could be evaluated. Currently, IRS officials are collaborating across functional areas and adapting traditional collection processes to accelerate the identification and resolution of unpaid taxes.

It is equally important to add perspective on the amount of unpaid taxes. According to IRS records, the 5 publicly traded institutions that received the most Troubled Asset Relief Program funds (of the institutions included in this audit) voluntarily paid $16 billion of corporate income and employment tax liabilities during the time their accounts contained $227 million of unpaid taxes. Records also showed that, as of their respective agreement execution dates, their accounts contained nearly $17 billion of credits.

In coming years, there are at least two factors that will require monitoring the tax accounts of participants. The first factor involves net operating losses that IRS officials expect many participants will be claiming for Tax Years 2008 and 2009. The second factor is the ongoing income tax audits of some participants, including eight involved in tax avoidance transactions.

## WHAT TIGTA RECOMMENDED

Although TIGTA made no recommendations in this report, IRS officials were provided an opportunity to review the draft report. IRS management did not provide any report comments.

TREASURY INSPECTOR GENERAL
FOR TAX ADMINISTRATION

DEPARTMENT OF THE TREASURY

WASHINGTON, D.C. 20220

April 28, 2010

**MEMORANDUM FOR** COMMISSIONER, LARGE AND MID-SIZE BUSINESS DIVISION
COMMISSIONER, SMALL BUSINESS/SELF-EMPLOYED DIVISION

**FROM:** Michael R. Phillips
Deputy Inspector General for Audit

**SUBJECT:** Final Audit Report – Most Unpaid Taxes of Participants in the Troubled Asset Relief Program Have Been Resolved (Audit # 200930034)

This report presents the results of our review to determine 1) the amount and type of Federal tax debt owed by recipients of Troubled Asset Relief Program funds, 2) whether Troubled Asset Relief Program participants with unpaid Federal taxes are engaged in abusive tax activities, and 3) the actions underway to enforce compliance or pursue collection of unpaid taxes from Troubled Asset Relief Program participants. This review addresses the major management challenge of Tax Compliance Initiatives in our Fiscal Year 2010 Annual Audit Plan and was conducted because of concerns raised over the unpaid taxes of some Troubled Asset Relief Program participants.

Although we made no recommendations in this report, we did provide Internal Revenue Service (IRS) officials an opportunity to review the draft report. IRS management did not provide us with any report comments.

Copies of this report are also being sent to the IRS managers affected by the report conclusions. Please contact me at (202) 622-6510 if you have questions or Margaret E. Begg, Assistant Inspector General for Audit (Compliance and Enforcement Operations), at (202) 622-8510.

# *Table of Contents*

## Abbreviations

| | |
|---|---|
| IRS | Internal Revenue Service |
| LMSB | Large and Mid-Size Business |
| SB/SE | Small Business/Self-Employed |
| TARP | Troubled Asset Relief Program |

# Background

The Troubled Asset Relief Program (TARP) was established under the Emergency Economic Stabilization Act of 2008[1] with the goal of stabilizing the nation's financial system and promoting economic recovery. The Act created the Office of Financial Stability within the United States Department of the Treasury (hereafter referred to as the Treasury) and established several programs under the TARP to further stabilize the financial system, restore the flow of credit to consumers and businesses, and address the foreclosure crisis to keep millions of Americans from losing their homes.

The Capital Purchase Program is by far the largest of the programs under the TARP umbrella in terms of funds invested and number of participants. As of May 5, 2009, the Federal Government's investment in the Capital Purchase Program totaled approximately $199 billion. In return for its $199 billion investment, the Federal Government received an equity interest in the financial institutions that elected to participate in the Program. Substantial investments were also made by the Federal Government in the TARP Systemically Significant Failing Institutions Program (approximately $69.8 billion) and the Targeted Investment Program (approximately $40 billion), although these programs had only a few participants.

TARP agreements between the Treasury and participating institutions involved a lengthy legal document that outlined numerous terms, conditions, commitments, and obligations between the two parties. For example, all institutions that receive money through the Capital Purchase Program must meet Treasury restrictions on compensation paid to top executives for as long as they are participants in the Program. The compensation restrictions are designed to discourage unnecessary and excessive risk taking (excessive salaries, bonuses, shares options, and other company benefits) that could threaten the value of the institution. TARP agreements also required the companies to specifically indicate that all material Federal taxes, as well as other taxes, were paid and they were not aware of any tax deficiencies. Appendix IV shows an example of the executive compensation and tax provisions from one of the contracts.

Considering the amount of Federal Government assistance involved in the TARP, the Treasury is receiving substantial oversight and, as a result, has been the subject of some criticism. Besides Congress, four agencies are charged by the Emergency Economic Stabilization Act with primary oversight of the TARP. These agencies include the Special Inspector General for the TARP, the Government Accountability Office, the Financial Stability Oversight Board, and the Congressional Oversight Panel. Collectively, as of December 2009, the 4 agencies have made 107 recommendations to assist the Treasury to ensure the taxpaying public's confidence and trust

[1] Pub. L. No. 110-343, 122 Stat. 3765 (2008).

in the performance and accountability of our Federal Government, in general, and the TARP specifically.

This review was performed in the Internal Revenue Service (IRS) Large and Mid-Size Business (LMSB) Division National Headquarters in Washington, D.C., and the Small Business/Self-Employed (SB/SE) Division National Headquarters in New Carrollton, Maryland, during the period June 2009 through January 2010. We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. Detailed information on our audit objectives, scope, and methodology is presented in Appendix I. Major contributors to the report are listed in Appendix II.

# Results of Review

The TARP is a large and controversial expenditure of public funds. The possibility that TARP participants are using the funds and not paying their Federal tax obligations risks undermining the taxpaying public's confidence and trust in the performance and accountability of our Federal Government. While some TARP participants owed millions in taxes at the time they signed agreements to participate in the TARP, it is important to consider the significance of the unpaid taxes and their applicability to the TARP, as well as the actions taken to ensure all TARP participants are meeting their Federal tax obligations.

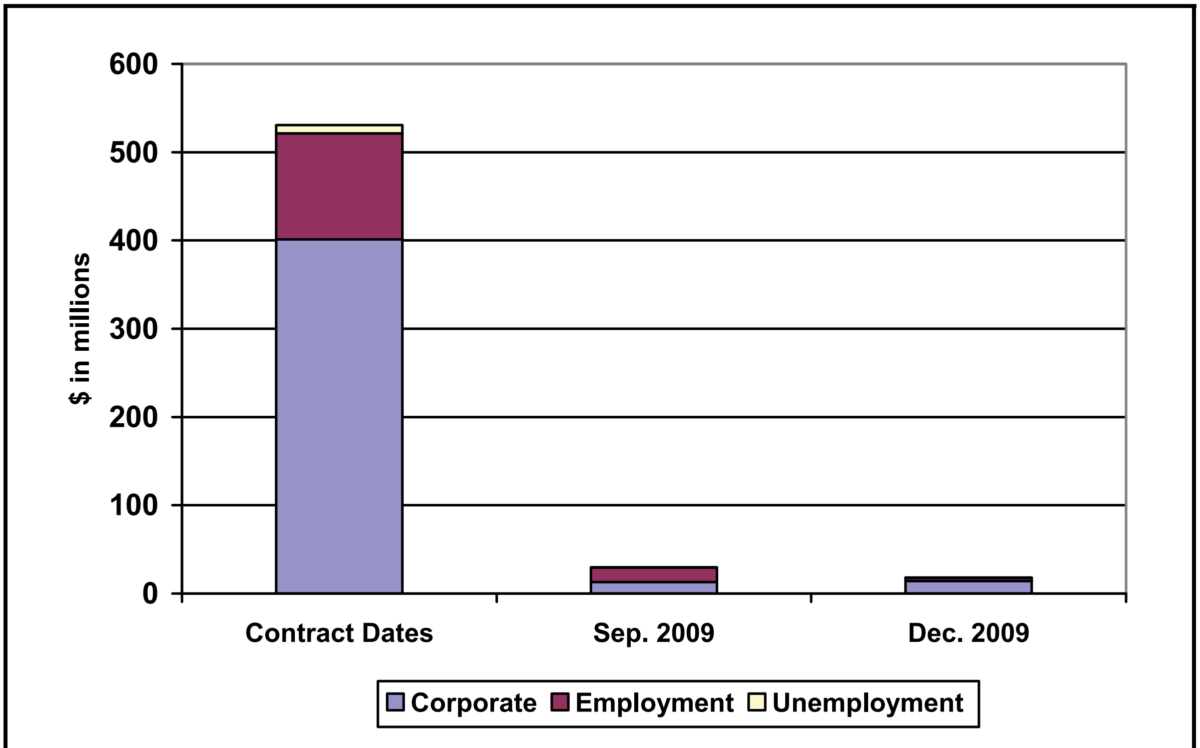
## Some Troubled Asset Relief Program Participants Owed Taxes to the Federal Government

Among the standardized terms and conditions in the TARP agreements between participating institutions and the Treasury was a stipulation requiring each institution to have paid the Federal taxes that could have a significant adverse effect on their operations or financial condition (see Appendix IV for specific details on the stipulation). Following concerns raised that some institutions received TARP funds while owing millions in unpaid taxes, we analyzed 558 institutions[2] that received $314 billion of TARP funds under the Capital Purchase Program, the Systemically Significant Failing Institutions Program, the Targeted Investment Program, and the Asset Guarantee Program.

Our analysis shows 130 of the 558 institutions included in our review had unpaid tax liabilities totaling $530.8 million[3] on the date[4] agreements were signed by the Treasury Assistant Secretary for Financial Stability and the institutions' representatives. The majority ($401.3 million or 76 percent) of the unpaid Federal taxes were associated with corporate income tax obligations and $12.3 million of the $401.3 million was outstanding for more than 6 months before the agreements were signed. Figure 1 shows that 97 percent of the obligations had been satisfied by December 2009.

[2] We limited our analysis to corporate institutions that had executed TARP contracts as of May 5, 2009, and had filed corporate income tax returns.
[3] These were assessed tax module balances which did not include any additional accruals such as interest and penalties that may have been due as of the contract execution date. A tax module refers to a specific year and type of return within a taxpayer's account and all tax modules combined comprise a taxpayer's account.
[4] The contract execution dates are the initial purchase dates shown on the Office of Financial Stability list of TARP participants.

**Figure 1: Composition of Unpaid Federal Tax Debts as of December 2009**




| | Contract Date | September 2009 | December 2009 |
|---|---|---|---|
| **Unemployment** | $9.5 | $0.3 | $0.3 |
| **Employment** | $120.0 | $16.5 | $3.5 |
| **Corporate** | $401.3 | $13.0 | $14.3 |
| **TOTAL** | $530.8 | $29.8 | $18.1 |

*Source: Our analysis of TARP participants' balances in the IRS Integrated Data Retrieval System[5] and the IRS list of TARP participants' account balances. The December 2009 balances include additional interest and penalties that may have accrued since the contract dates.*

In considering the significance of the original amount of unpaid taxes and their applicability to the TARP, it is important to recognize that when the agreements were signed, the Treasury was in the beginning stages of establishing the Program to address the serious economic conditions threatening the stability of our financial system. Consequently, the focus on stabilizing our financial system and taking action to begin restoring confidence in the United States and world economies may have taken priority over establishing the controls necessary to identify unpaid

5 IRS computer system capable of retrieving or updating stored information; it works in conjunction with a taxpayer's account records.

tax liabilities so that the impact of the tax liabilities on the eligibility of TARP fund participants could be evaluated. The Government Accountability Office noted the following in its first[6] of several reports on the impact of the TARP:

> *[The] Treasury is operating on a number of fronts concurrently. It is setting up programs and establishing oversight policies and procedures at the same time. As a result, we are seeing some lag in administrative efforts—for example, in internal controls—as the programs proceed.*

### It is equally important to recognize the impact the unpaid taxes could have on each institution's financial condition and to add perspective on the amount of taxes owed

Without access to the financial records of the TARP participants, we do not know with any degree of precision if the unpaid taxes were significant enough to adversely affect the participants' operations or financial condition. Nevertheless, it is worth noting that the Treasury and the nation's Federal banking agencies considered all of the TARP fund participants to be viable institutions, although in need of additional capital for stability or lending. Moreover, the 558 institutions included in our study involved our nation's largest and most profitable publicly traded financial institutions[7] and several have repaid, or are taking steps to repay, the funds.

While we did not have access the institutions' financial records, we did have access to IRS tax records and personnel that helped provide some perspective on the significance and status of the unpaid taxes. We found that just as in other business sectors, many financial services corporations have grown in size and complexity in response to globalization. According to IRS records, the 558 financial institutions collectively owned or controlled 6,520 corporate subsidiaries that operated as separate taxable entities domestically and overseas. Appendix V contains additional details on the top five publically traded institutions that received the largest amount of TARP funds, including the revenue and assets they reported in Calendar Year 2008 and the number of related subsidiaries.[8]

The 6,520 corporate subsidiaries and their 558 parent corporations not only have obligations to pay Federal income taxes on their corporate earnings, but also collect and pay to the Federal Government the taxes withheld from their employees' wages for Federal income taxes, Social Security, and Medicare (employment taxes). In addition, the parent corporations and their subsidiaries pay mandatory matching contributions for the Social Security and Medicare taxes withheld from their employees' wages.

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[6] *Troubled Asset Relief Program: Additional Actions Needed to Better Ensure Integrity, Accountability, and Transparency* (GAO-09-161, dated December 2008).
[7] According to the Fortune 500 list for 2008.
[8] Includes domestic corporations (subsidiaries) that filed consolidated returns with their parent corporations and related subsidiaries that are unconsolidated.

To provide perspective on the unpaid taxes, we judgmentally selected the five publicly traded institutions that received the most TARP funds for an indepth analysis. According to IRS records, the 5 institutions had 2,450 corporate subsidiaries and collectively accounted for $227 million (43 percent) of the $530.8 million of unpaid taxes owed by 130 institutions at the time their TARP agreements were signed. IRS records showed the 5 institutions voluntarily paid $16 billion of corporate income and employment tax liabilities during the time the $227 million was owed (Tax Years 1996 through September 2008). The IRS records also showed that, as of their respective contract execution dates, the corporate income and employment tax accounts of the institutions contained nearly $17 billion of credits that, in general, represent payments the institutions made towards anticipated corporate income and employment tax obligations.

## The unpaid taxes of the financial institutions participating in the TARP posed a challenge for the IRS

The IRS initially faced a challenge in determining how well TARP fund participants were meeting their Federal tax obligations. According to IRS officials, the challenge largely stemmed from the sheer number of subsidiaries owned or controlled by the financial institutions in the TARP, which overwhelmed the ability of IRS computer programs to identify and track unpaid tax debts across the thousands of separate but related taxable entities. Figure 2 summarizes our comparison of the tradition collection process and the modified process to collect from TARP participants.

**Figure 2: Comparison Between the IRS Traditional Collection Process and the Modified Process Established to Collect Unpaid Taxes From TARP Participants**

| *Processes for Collecting Unpaid Taxes* | *Traditional Process* | *Modified Process* |
|---|---|---|
| 1. Identifies unpaid taxes of multiple related but separate taxable entities. | O | X |
| 2. Issuance of up to 2 notices in 5-week intervals. | X | X |
| 3. Attempts to collect the unpaid taxes through telephone contacts. | X | * |
| 4. Placed in suspense status while awaiting final collection assignment. | * | O |
| 5. Placed in shelved[9] status due to inadequate resources to pursue collection. | * | O |
| 6. Assigned for face-to-face contact. | * | X |
| **X** *Yes* **O** *No* * *Partial* | | |

*Source: Our analysis of IRS collection processes.*

[9] Delinquent unpaid accounts or investigations of unfiled tax returns that have been taken out of the Collection function's inventory because they are of lower priority than other available inventory.

IRS officials are responding to the challenge by collaborating across functional areas and adapting traditional collection processes to accelerate the identification and resolution of unpaid taxes from TARP fund participants. For example, officials in the LMSB Division Office of Pre-Filing and Technical Guidance are typically involved with assisting businesses to voluntarily meet their future tax obligations by developing, implementing, and monitoring pre-filing initiatives such as the Industry Issue Resolution Program and the Pre-Filing Agreement Program. However, the Office of Pre-Filing and Technical Guidance partnered with the SB/SE Division Collection function to set up a process to monitor the balance due accounts of TARP participants.

The process begins when the Office of Pre-Filing and Technical Guidance retrieves a list of TARP participants from the Office of Financial Stability web site (approximately every 6 weeks), obtains an extract of the taxpayers' accounts on the IRS Master File,[10] and then sends the list to the SB/SE Division Collection function. Once received in the Collection function, the traditional process of sending up to 2 collection notices over a 10- to 15-week period remains. According to IRS records and officials, taxpayers were resolving most of the balances through the normal notice process. However, Collection function officials stated that if the liabilities are not resolved through the notice process, the practice of assigning the tax liabilities to the Automated Collection System[11] inventory has been eliminated for most TARP accounts. In addition, we were told that TARP accounts are not assigned to a Collection function Queue[12] or otherwise placed in an inactive status due to resource constraints.

Instead, TARP cases are accelerated to Collection field offices if payment has not been received in response to the collection notices. Revenue officers then make face-to-face contact to secure payment or take enforcement action, such as levying bank accounts, placing liens on property, or seizing assets. The field offices submit monthly progress reports to an analyst responsible for monitoring collection actions involving TARP participants.

As shown in Appendix VI, we compared our list of the unpaid tax accounts for the 31 institutions that still owed taxes as of December 2009 to the IRS list of ongoing TARP collection activity as of December 19, 2009. Although we found that 12 tax modules, totaling $249,788, had no record of current collection activity, we were able to determine that collection actions were in process for about 99 percent of the unpaid balances.

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[10] The IRS database that stores various types of taxpayer account information. This database includes individual, business, and employee plans and exempt organizations data.
[11] A telephone contact system through which telephone assistors collect unpaid taxes and secure tax returns from delinquent taxpayers who have not complied with previous notices.
[12] An automated holding file for unassigned inventory of delinquent cases for which the Collection function does not have enough resources to immediately assign for contact.

## Other factors exist that could affect the tax liabilities of TARP participants

In coming years, there are at least two factors that will require the IRS to continue closely monitoring the tax accounts of TARP participants. The first factor involves net operating losses that the IRS expects many TARP participants will be claiming for Tax Years 2008 and 2009. IRS officials stated that as of September 30, 2009, 3 of the top 5 TARP participants included in our review have claimed $6.4 billion in net operating losses for Tax Year 2008.

Recent tax law changes allow small, medium, and large-size businesses to use losses incurred in Tax Years 2008 and 2009 to claim refunds for taxes paid in the previous 5 years when they were profitable. The change is part of the economic recovery bill aimed at further helping increase access to capital for financially distressed businesses. However, TARP participants were specifically excluded from taking advantage of these new tax incentives, although they can still use net operating losses to claim refunds for taxes paid in the 2 years previous to incurring the net operating loss. Consequently, the IRS will need to ensure TARP participants are following the proper provisions of the tax law when claiming refunds for losses.

The second factor is the ongoing income tax audits of TARP participants. IRS records show that, as of September 30, 2009, for the 7,078 institutions (558 parent corporations and 6,520 subsidiaries) included in our review, 72 corporations have a total of 198 tax years under audit. The ongoing audits included eight institutions that signed TARP agreements with unpaid taxes and were involved in tax avoidance transactions, which are transactions the IRS has determined takes advantage of loopholes in the tax law to inappropriately reduce tax liabilities. While it is too early in the process to predict how much, if any, additional taxes will be owed from the audits, IRS records show that LMSB Division examiners recommended an average of $659,599 in additional taxes per examined return during Fiscal Year 2009. As a result, the IRS will need to ensure TARP participants are following the proper provisions of the tax law when claiming refunds for losses and paying any taxes due as a result of IRS audits.

**Appendix I**

# Detailed Objectives, Scope, and Methodology

The overall objectives of this review were to determine 1) the amount and type of Federal tax debt owed by recipients of TARP funds, 2) whether TARP participants with unpaid Federal taxes are engaged in abusive tax activities, and 3) the actions underway to enforce compliance or pursue collection of unpaid taxes from TARP participants. To accomplish our objectives, we:

I. Reviewed documents relating to the TARP, including House Resolution 1424, and reports by the Government Accountability Office, Congressional Oversight Panel, Office of Special Inspector for Troubled Asset Relief Program, and Financial Stability Oversight Board.

II. Used the IRS Integrated Data Retrieval System[1] to extract the Taxpayer Identification Numbers for the 571 institutions listed as TARP participants as of May 5, 2009, on the web site for the Office of Financial Stability. We analyzed the corporate income and employment tax accounts in IRS records for the 558 corporate institutions that had filed corporate income tax returns.

III. Obtained Employer Identification Numbers for all subsidiaries of the 558 corporate institutions from data maintained by the LMSB Division Research and Workload Identification organization.

IV. Obtained and analyzed Business Master File[2] information for corporate and employment taxes for the parent corporations and their subsidiaries as of June 2009.

V. Judgmentally selected[3] the five publicly traded institutions that received the most TARP funds for an indepth analysis of the status of their unpaid taxes.

VI. Contrasted normal IRS collection procedures to the procedures used for TARP participants.

VII. Interviewed officials from the Collection function about their efforts to monitor and collect balance due accounts from TARP participants.

VIII. Interviewed officials in the LMSB Division Office of Pre-Filing and Technical Guidance on their efforts to monitor the balance due accounts for TARP participants.

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[1] IRS computer system capable of retrieving or updating stored information; it works in conjunction with a taxpayer's account records.
[2] The IRS database that consists of Federal tax-related transactions and accounts for businesses. These include employment taxes, income taxes on businesses, and excise taxes.
[3] Judgmental sampling was used to conserve time and resources.

IX. Interviewed officials in the LMSB Division Office of Tax Shelter Analysis on their efforts to monitor the audits of TARP participants.

## ***Internal controls methodology***

Internal controls relate to management's plans, methods, and procedures used to meet their mission, goals, and objectives. Internal controls include the processes and procedures for planning, organizing, directing, and controlling program operations. They include the systems for measuring, reporting, and monitoring program performance. We determined that the following internal controls were relevant to our audit objectives: the procedures used by the IRS to monitor the status of the tax accounts of TARP participants, to include applicable examination and collection activities. We evaluated these controls by interviewing management officials and reviewing flowcharts and other documents used to monitor the balance due accounts of TARP participants, as well as reviewing the procedures in place to monitor the status of examination and collection activity.

## Appendix II

# Major Contributors to This Report

Margaret E. Begg, Assistant Inspector General for Audit (Compliance and Enforcement Operations)
Frank Dunleavy, Director
Robert Jenness, Audit Manager
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David Hartman, Senior Auditor
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## Appendix III

# Report Distribution List

Commissioner C
Office of the Commissioner – Attn: Chief of Staff C
Deputy Commissioner for Services and Enforcement SE
Deputy Commissioner, Large and Mid-Size Business Division SE:LM
Deputy Commissioner, Small Business/Self-Employed Division SE:S
Director, Collection, Small Business/Self-Employed Division SE:S:C
Director, Pre-Filing and Technical Guidance, Large and Mid-Size Business Division SE:LM:PFTG
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## Appendix IV

# Typical Troubled Asset Relief Program Contract With the Federal Government

Prior to receiving TARP funds, each participant was required to sign a contract with the United States Department of the Treasury. One of the provisions of the contract required the participant to specifically state that all material Federal taxes, as well as other taxes, were paid and they were not aware of any tax deficiencies. In addition, institutions that receive money through the Capital Purchase Program must meet Department of the Treasury restrictions on compensation paid to top executives for as long as they are participants in the Program. The compensation restrictions are designed to discourage unnecessary and excessive risk (excessive salaries, bonuses, shares options, and other benefits) that could threaten the value of the institution. Examples of the provisions from one of the contracts are shown below.

**Taxes**

*Except as would not, individually or in the aggregate, reasonably be expected to have a Company Material Adverse Effect, (i) the Company and the Company Subsidiaries have filed all federal, state, local and foreign income and franchise tax returns required to be filed through the Signing Date, subject to permitted extensions, and have paid all Taxes due thereon, and (ii) no Tax deficiency has been determined adversely to the Company or any of the Company Subsidiaries, nor does the Company have any knowledge of any Tax deficiencies. "Tax" or "Taxes" means any federal, state, local or foreign income, gross receipts, property, sales, use, license, excise, franchise, employment, payroll, withholding, alternative or add on minimum, ad valorem, transfer or excise tax, or any other tax, custom, duty, government fee, or other like assessment or charge of any kind whatsoever, together with any interest or penalty, imposed by any Government Entity.*

**Executive Compensation**

*In consideration for the benefits I will receive as a result of my employer's participation in the United States Department of the Treasury's TARP Capital Purchase Program, I hereby voluntarily waive any claim against the United States or my employer for any changes to my compensation or benefits that are required to comply with the regulation issued by the Department of the Treasury as published in the Federal Register on October 20, 2008. I acknowledge that this regulation may require modification of the compensation, bonus, incentive and other benefit plans, arrangements, policies and agreements (including so-called "golden parachute" agreements) that I have with my employer or in which I participate as they relate to the period the United States holds any equity or debt securities of my employer acquired through the TARP Capital Purchase Program. This waiver includes* *all claims I may have under the laws of the United States or any state related to the requirements imposed by the aforementioned regulation, including without limitation a claim for any compensation or other payments I would otherwise receive, any challenge to the process by which this regulation was adopted and any tort or constitutional claim about the effect of these regulations on my employment relationship.*

## Appendix V

# The Five Largest Recipients of Troubled Asset Relief Program Funds

Figure 1 shows the five publically traded institutions that received the most TARP funds, along with each institution's revenue and assets as reported in their 2008 annual reports. It also adds some perspective on the size of the institutions by providing an estimate of their related subsidiaries. Institutions create subsidiaries for a variety of reasons, such as to protect themselves from the financial risks associated with new business ventures while retaining the flexibility of selling the subsidiary at a later date. In addition, there are tax benefits associated with subsidiaries. For example, companies that operate internationally can set up foreign operations as separate subsidiaries. In general, the profits of those subsidiaries will then be taxed in the country where the subsidiary is incorporated and will not be subject to United States corporate income tax.

***Figure 1: Comparison of Selected Financial Information From the Five Publically Traded Institutions That Received the Most TARP Funds***

| Corporation | Rank by TARP Funds Received[1] | TARP Funds Received (billions) | 2008 Total Assets (billions) | 2008 Revenue (billions) | Number of Subsidiaries |
|---|---|---|---|---|---|
| ***1*** | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |

*Source: Our analysis of IRS records and annual reports for the respective companies.*

[1] The ranking was done by analyzing a transaction report by the Office of Financial Stability as of May 5, 2009.
[2] According to IRS records, these are domestic corporations that filed consolidated returns with their parents.

## Appendix VI

# Summary of Unpaid Tax Modules for Troubled Asset Relief Program Participants

We compared our list of the 31 institutions that still owed Federal taxes as of December 2009 to the IRS list of ongoing TARP collection activity as of December 19, 2009, and were able to determine the collection actions in process for about 99 percent of the amounts still owed. In total, 12 tax modules, totaling $249,788.06, had no record of collection action. Figure 1 shows the collection status for these institutions and the IRS efforts to collect them, primarily based on monthly reports submitted to the SB/SE Division Collection function analyst responsible for monitoring collection actions involving TARP participants, as well as reports from the Office of Pre-Filing and Technical Guidance unit responsible for tracking the status of debts owed by TARP participants.

### Figure 1: Status of Unpaid Taxes From 31 TARP Participants as of December 2009

| Institution | Entity Type | Type of Tax | Tax Periods | Unpaid Amount | Status of Collection Actions (per IRS Reports) |
|---|---|---|---|---|---|
| ***1*** | | | | | |

| Institution | Entity Type | Type of Tax | Tax Periods | Unpaid Amount | Status of Collection Actions (per IRS Reports) |
|---|---|---|---|---|---|
| ***1*** | | | | | |

| Institution | Entity Type | Type of Tax | Tax Periods | Unpaid Amount | Status of Collection Actions (per IRS Reports) |
|---|---|---|---|---|---|

***1***

| Institution | Entity Type | Type of Tax | Tax Periods | Unpaid Amount | Status of Collection Actions (per IRS Reports) |
|---|---|---|---|---|---|
| ***1*** | | | | | |

| Institution | Entity Type | Type of Tax | Tax Periods | Unpaid Amount | Status of Collection Actions (per IRS Reports) |
|---|---|---|---|---|---|
| ***1*** | | | | | |

[1] The data processing arm of the IRS. The campuses process paper and electronic submissions, correct errors, and forward data to the Computing Centers for analysis and posting to taxpayer accounts.

| Institution | Entity Type | Type of Tax | Tax Periods | Unpaid Amount | Status of Collection Actions (per IRS Reports) |
|---|---|---|---|---|---|
| ***1*** | | | | | |

*Source: Our analysis of IRS Collection function activity reports.*