



## Treasury Inspector General for Tax Administration Office of Audit

### FISCAL YEAR 2011 STATUTORY AUDIT OF COMPLIANCE WITH LEGAL GUIDELINES PROHIBITING THE USE OF ILLEGAL TAX PROTESTER AND SIMILAR DESIGNATIONS

Issued on April 29, 2011

## Highlights

Highlights of Report Number: 2011-30-040 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. However, IRS 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 Protesters and similar designations.

### WHAT TIGTA FOUND

The IRS has not reintroduced past Illegal Tax Protester codes or similar designations on taxpayer accounts. In addition, the Internal Revenue Manual no longer contains any Illegal Tax Protester references. However, TIGTA found that out of approximately 3.6 million records and cases, there were 38 instances in which 34 employees had referred to taxpayers as "Tax Protester," "Constitutionally Challenged," or other similar designations in case narratives on the computer systems analyzed.

### WHAT TIGTA RECOMMENDED

TIGTA made no new recommendations in this report because the IRS has long disagreed with our determination that in order to comply with RRA 98 Section 3707, IRS employees should not designate taxpayers as Illegal Tax Protesters or similar designations in case histories. Moreover, TIGTA has previously elevated this disagreement to the Assistant Secretary for Management and Chief Financial Officer of the Department of the Treasury, but it has yet to be resolved.

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.

### READ THE FULL REPORT

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

<http://www.treas.gov/tigta/auditreports/2011reports/201130040fr.pdf>.