



*Fiscal Year 2011 Statutory Audit of  
Compliance With Legal Guidelines  
Restricting the Use of Records of  
Tax Enforcement Results*

**July 27, 2011**

**Reference Number: 2011-30-069**

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.

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## HIGHLIGHTS

### FISCAL YEAR 2011 STATUTORY AUDIT OF COMPLIANCE WITH LEGAL GUIDELINES RESTRICTING THE USE OF RECORDS OF TAX ENFORCEMENT RESULTS

## Highlights

Final Report issued on July 27, 2011

Highlights of Reference Number: 2011-30-069 to the Internal Revenue Service Deputy Commissioner for Operations Support.

### IMPACT ON TAXPAYERS

The Internal Revenue Service (IRS) Restructuring and Reform Act of 1998 (RRA 98) requires the IRS to ensure that managers do not evaluate enforcement employees using any record of tax enforcement results (ROTER) or base employee successes on meeting ROTER goals and quotas. Based on the results of our sample, TIGTA believes the IRS's efforts to enforce the employee evaluation requirements under Section 1204 are generally effective and are helping to protect the rights of taxpayers.

### WHY TIGTA DID THE AUDIT

TIGTA is required under Internal Revenue Code Section 7803(d)(1)(2000) to annually evaluate whether the IRS complies with restrictions on the use of enforcement statistics under RRA 98 Section 1204. Our review determined whether the IRS complied with:

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

### WHAT TIGTA FOUND

The IRS achieved full compliance with Section 1204(a) requirements. TIGTA identified no violations of RRA 98 Section 1204(a) in performance evaluation documents for the 145 employees reviewed. Our review found that managers had not included ROTERs in employees' performance evaluation documents.

Also, the IRS achieved full compliance with Section 1204(b) and (c) requirements. The IRS evaluated all employees on the fair and equitable treatment of taxpayers and prepared quarterly self-certifications showing whether or not ROTERs were used to evaluate employees.

In a judgmental sample of 32 employees, nine (28 percent) did not understand the term "retention standard," and 13 (41 percent) were not sure they had received training on the retention standard.

For Fiscal Year 2011, the IRS mandatory RRA 98 Section 1204 training for managers and employees was launched through the Enterprise Learning Management System. Training delivery will be staggered from March 1, 2011, to September 30, 2011, to accommodate the operating and functional divisions' workload.

### WHAT TIGTA RECOMMENDED

Although TIGTA made no recommendations in this report, IRS officials were provided an opportunity to review the draft report. IRS management agreed with the report language and conclusions presented in the report.



TREASURY INSPECTOR GENERAL  
FOR TAX ADMINISTRATION

DEPARTMENT OF THE TREASURY  
WASHINGTON, D.C. 20220

July 27, 2011

**MEMORANDUM FOR DEPUTY COMMISSIONER FOR OPERATIONS SUPPORT**

*Michael R. Phillips*

**FROM:**

Michael R. Phillips  
Deputy Inspector General for Audit

**SUBJECT:**

Final Audit Report – Fiscal Year 2011 Statutory Audit of Compliance  
With Legal Guidelines Restricting the Use of Records of Tax  
Enforcement Results (Audit # 201130011)

This report presents the results of our review to determine whether the Internal Revenue Service (IRS) complied with restrictions on the use of enforcement statistics to evaluate employees as set forth in the IRS Restructuring and Reform Act of 1998 (RRA 98) Section 1204.<sup>1</sup> The Treasury Inspector General for Tax Administration is required under Internal Revenue Code Section 7803(d)(1)(2000) to annually evaluate the IRS's compliance with the provisions of RRA 98 Section 1204. The RRA 98 requires the IRS to ensure that managers do not evaluate enforcement employees<sup>2</sup> using any record of tax enforcement results (ROTTER) or base employee successes on meeting goals and quotas for ROTERS.

Although we made no recommendations in this report, IRS officials were provided an opportunity to review the draft report. IRS management agreed with the report language and conclusions presented in the report. Management's complete response to the draft report is included as Appendix VI.

Copies of this report are also being sent to the IRS managers affected by the report.

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.

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<sup>1</sup> Pub. L. No. 105-206, 112 Stat. 685 (codified as amended in scattered sections of 2 U.S.C., 5 U.S.C. app., 16 U.S.C., 19 U.S.C., 22 U.S.C., 23 U.S.C., 26 U.S.C., 31 U.S.C., 38 U.S.C., and 49 U.S.C.).

<sup>2</sup> An enforcement (Section 1204) employee is an employee or any manager of an employee who exercises judgment in recommending or determining whether or how the IRS should pursue enforcement of the tax laws or who provides direction/guidance for Section 1204 program activities.



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*Abbreviations*

|        |   |
|--------|---|
| FY     | Fiscal Year                                       |
| IRS    | Internal Revenue Service                          |
| ROTER  | Record of Tax Enforcement Results                 |
| RRA 98 | Restructuring and Reform Act of 1998              |
| TIGTA  | Treasury Inspector General for Tax Administration |



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## *Background*

On July 22, 1998, the President signed the Internal Revenue Service (IRS) Restructuring and Reform Act of 1998 (RRA 98) into law.<sup>1</sup> RRA 98 Section 1204 restricts the use of enforcement statistics. Specifically, RRA 98 Section 1204(a) prohibits the IRS from using any record of tax enforcement results (ROTTER) to evaluate employees, or to impose or suggest quotas or goals for such employees.

The IRS defines ROTERs as data, statistics, compilations of information, or other numerical or quantitative recordings of the tax enforcement results reached in one or more cases. A ROTER does not include evaluating an individual case to determine if an employee exercised appropriate judgment in pursuing enforcement of the tax laws. Examples of ROTERs include the amount of dollars collected or assessed, the number of fraud referrals made, and the number of seizures conducted.

***RRA 98 Section 1204(a) prohibits the IRS from using ROTERs to evaluate employees, or to impose or suggest quotas or goals for such employees.***

RRA 98 Section 1204(b) requires employees to be evaluated using the fair and equitable treatment of taxpayers as a performance standard. The IRS refers to this standard as the retention standard. The standard requires employees to administer the tax laws fairly and equitably; protect all taxpayers' rights; and treat each taxpayer ethically with honesty, integrity, and respect. This provision of the law was enacted to provide assurance that employee performance is focused on providing quality service to taxpayers instead of achieving enforcement results.

RRA 98 Section 1204(c) requires each appropriate supervisor to perform a quarterly self-certification. In the self-certification, the appropriate supervisor attests to whether ROTERs were used in a prohibited manner. The IRS defines an appropriate supervisor as the highest ranking executive in a distinct organizational unit who supervises directly or indirectly one or more Section 1204 enforcement employees.<sup>2</sup> Current IRS procedures require each level of management, beginning with first-line managers of Section 1204(a) employees, to self-certify as to whether or not they used ROTERs in a manner prohibited by RRA 98 Section 1204(a). The

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<sup>1</sup> Pub. L. No. 105-206, 112 Stat. 685 (codified as amended in scattered sections of 2 U.S.C., 5 U.S.C. app., 16 U.S.C., 19 U.S.C., 22 U.S.C., 23 U.S.C., 26 U.S.C., 31 U.S.C., 38 U.S.C., and 49 U.S.C.).

<sup>2</sup> An enforcement (Section 1204) employee is an employee or any manager of an employee who exercises judgment in recommending or determining whether or how the IRS should pursue enforcement of the tax laws or who provides direction/guidance for Section 1204 program activities.



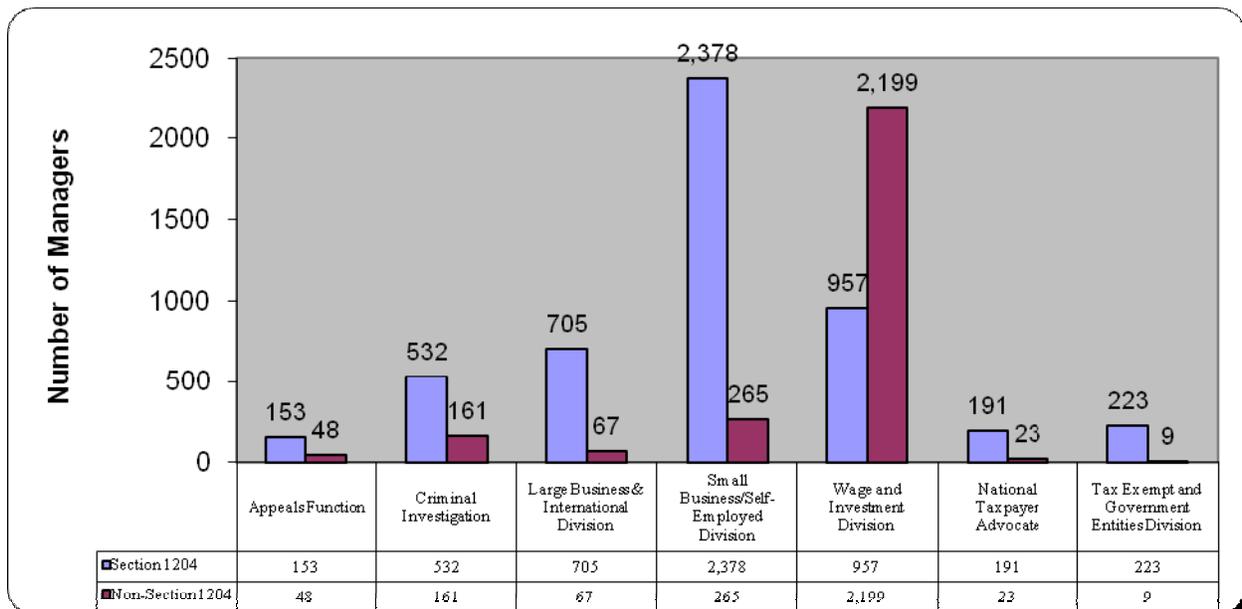
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appropriate supervisor then prepares a consolidated office certification covering the entire organizational unit.

The IRS functional offices and divisions, including the Office of the Chief, Appeals; the Office of the Chief, Criminal Investigation; the Large Business and International Division;<sup>3</sup> the Small Business/Self-Employed Division; the Office of the National Taxpayer Advocate; the Tax Exempt and Government Entities Division; and the Wage and Investment Division, are responsible for Section 1204 program implementation within their respective areas. Section 1204 Program Managers and Coordinators in each business organization are available to provide guidance to managers regarding Section 1204 issues, including the certification process.

Figure 1 depicts the ratio of Section 1204 and Non-Section 1204 managers in the subject business organizations as of September 30, 2010. The Section 1204 managers either supervised a Section 1204 employee or provided guidance or direction for Section 1204 activities.

**Figure 1: Number of Section 1204 and Non-Section 1204 Managers by Business Organization (as of September 30, 2010)**



Source: IRS National Section 1204 Program Manager.

Internal Revenue Code Section 7803(d)(1)(2000) requires the Treasury Inspector General for Tax Administration (TIGTA) to determine annually whether the IRS is in compliance with restrictions on the use of enforcement statistics under RRA 98 Section 1204. We have previously performed 12 annual reviews to meet this requirement. Appendix IV lists the prior audit reports.

<sup>3</sup> Formerly referred to as the Large and Mid-Size Business Division.



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This review was performed at the IRS National Headquarters in Washington, D.C., in the Office of the Chief Financial Officer; the Office of the Chief, Appeals; the Office of the Chief, Criminal Investigation; the Office of the National Taxpayer Advocate; the Large Business and International Division; the Small Business/Self-Employed Division; the Tax Exempt and Government Entities Division; and the Wage and Investment Division during the period December 2010 through April 2011.

Onsite reviews were performed at the IRS field offices in Denver, Colorado; New York City, New York; Philadelphia, Pennsylvania; Houston, Texas; and Seattle, Washington. 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 objective. We believe that the evidence obtained provides a reasonable basis for our conclusions based on our audit objective. Detailed information on our audit objective, scope, and methodology is presented in Appendix I. Major contributors to the report are listed in Appendix II.



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## *Results of Review*

### ***First-Line and Second-Line Managers Appropriately Completed Their Quarterly Self-Certifications***

All 40 first-line and second-line managers we sampled complied with the provisions of RRA 98 Section 1204(c) and completed the required self-certifications on the use of tax enforcement results for the second and fourth quarters of Fiscal Year (FY) 2010. Each manager certified whether or not ROTERs were used when evaluating employees. Appendix V reflects the Manager's Quarterly Self-Certification – No Violations (Form 1204-M) that managers use to self-certify that there are no violations of RRA 98 Section 1204(a) and (b).

RRA 98 Section 1204(c) requires appropriate supervisors to certify quarterly, in writing, to the IRS Commissioner whether ROTERs were used in a prohibited manner. Therefore, managers who evaluate Section 1204 employees are required to certify in writing that they did not:

- Use ROTERs to evaluate employees or to impose or suggest production quotas or goals for employees in any performance evaluations, including appraisals, awards, or promotion justifications, written or reviewed by the manager.
- Verbally communicate to employees that ROTERs affected their evaluations.
- Verbally or in writing use ROTERs to impose or suggest production quotas or goals for employees or for work unit activities (e.g., through program guidance or business and program reviews).

Per the Internal Revenue Manual, the business organization and function Section 1204 Program Managers and their respective Section 1204 Coordinators should monitor the quarterly certification process and provide guidance to managers regarding Section 1204 issues throughout their organizations/functions. Through the quarterly certification process, managers are reminded of their responsibilities under RRA 98 Section 1204 not to evaluate their employees on the basis of ROTERs. The quarterly certification process helps to ensure that managers are aware of the IRS's commitment to administer the tax laws fairly and to protect the rights of taxpayers.

### ***The Internal Revenue Service Is in Full Compliance With the Use of Records of Tax Enforcement Results Procedures***

In FY 2010, the IRS achieved full compliance with the RRA 98 Section 1204 employee or manager performance-related documents reviewed.



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To evaluate the IRS's compliance with Sections 1204(a) and 1204(b), we selected a judgmental sample of 35 first-line managers and 105 employees in 5 sites.<sup>4</sup> The sites selected had at least six business organizations with Section 1204 first-line managers. We selected seven managers and three of the managers' employees at each site and reviewed their performance evaluation documents. We also reviewed performance documents for five second-line managers. We evaluated FY 2010 performance-related documents, including mid-year and annual performance reviews, employee self-assessments, and workload reviews documentation for 145 employees, to determine whether ROTERs were used when evaluating employees' performance.

***TIGTA auditors reviewed performance-related documents for 145 IRS employees.***

Based on the results of our review, the IRS's efforts to ensure that managers are not using ROTERs to evaluate employees are effective and are helping to protect the rights of taxpayers. The IRS continues to use its managerial self-certification process to identify and report ROTER violations. In addition, each manager certified that ROTERs production goals or quotas were not used when evaluating employees.

***Some employees did not understand the retention standard terminology or receive training***

We interviewed a judgmental sample of 32 Section 1204 employees to determine if they received training and understood the terminology "retention standard." Nine (28 percent) of the employees did not understand the term, and 13 (41 percent) of the employees were not sure if they had received training related to this topic. The first-line managers we sampled documented that they had evaluated employees on the retention standard. According to RRA 98 Section 1204(b), IRS employees are to be evaluated on the retention standard. The standard applies to all executives, managers, and other employees.

During our review, the IRS's Chief Financial Officer updated the Enterprise Learning Management System courses for Section 1204 managers and employees to receive Section 1204 training, which includes the retention standard. Consideration will be given to change the frequency of the training to be mandatory every 2 years. The mandatory Section 1204 training for all managers and employees in all IRS branches began March 1, 2011, and will continue through September 30, 2011. We are not making any recommendations regarding the ongoing mandatory Section 1204 training for FY 2011 in order to allow time for the IRS to complete the training. We will follow up to evaluate the effectiveness of the IRS's training during our FY 2012 review.

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<sup>4</sup> See Appendix I for details of the IRS offices and five cities selected for review.



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On June 16, 1999, the IRS established a retention standard method to ensure that employee performance is focused on providing quality service to taxpayers instead of on achieving enforcement results. For all 145 employees sampled, Block 9 of the Bargaining Unit Performance Appraisal and Recognition Election (Form 6850-BU) or the Non-Bargaining Unit Performance Appraisal (Form 6850-NBU) was checked, indicating that the employees were evaluated on this standard. Figure 2 presents a Form 6850-BU pertaining to the retention standard.

**Figure 2: Forms 6850 Retention Standard Rating**

| <b>Bargaining Unit Performance Appraisal and Recognition Request</b><br><small>(Review instructions before completing this form)</small>  |  |   |                 |
|---|--|---|-----------------|
| 1. Name of employee (Last, first, middle initial)   |  | 2. Last 4 digits of SSN   |                 |
| 4. Office symbols/Organization  |  | 5. Pay plan, series and grade   |                 |
| 6. Position title   |  | 7. Period covered<br>From: _____ To: _____  |                 |
| 9. Fair and Equitable Treatment of Taxpayers<br>Retention Standard Rating   |  | 8. Mandatory progress review was conducted on _____<br><input type="checkbox"/> Not Met             |                 |
| <input type="checkbox"/> Not Applicable <input type="checkbox"/> Met  |  | <input type="checkbox"/> Not Met  |                 |
| 10. Critical Job Elements (CJEs)  | 11. Performance Aspects  | 12. Performance Aspects Rating  | 13. CJE Ratings |
| I. Employee Satisfaction – Employee Contribution  | A. Workplace Interaction<br>B. Workgroup Involvement<br>C. Workplace Environment | Exceeds Meets Fails N/A   |                 |
| II. Customer Satisfaction – Knowledge   | A.<br>B.<br>C.<br>D.<br>E.   |   |                 |
| III. Customer Satisfaction – Application  | A.<br>B.<br>C.<br>D.<br>E.   |   |                 |
| IV. Business Results – Quality  | A.<br>B.<br>C.<br>D.<br>E.   |   |                 |
| V. Business Results – Efficiency  | A.<br>B.<br>C.<br>D.<br>E.   |   |                 |
| 14. Overall rating<br><input type="checkbox"/> Outstanding <input type="checkbox"/> Exceeds Fully Successful <input type="checkbox"/> Fully Successful <input type="checkbox"/> Minimally Successful <input type="checkbox"/> Unacceptable <input type="checkbox"/> Not Ratable Reason for not ratable: _____ |  | 15. Average CJE Score _____   |                 |
| <b>A. Certification of Rating - By signing below, each Rater and Reviewer certifies that records of tax enforcement results (ROTERR) were not used to prepare this appraisal.</b>   |  |   |                 |
| 16a. Rater name/title/signature/date _____  |  |   |                 |
| 16b. Reviewing Official name/title/signature/date _____   |  |   |                 |
| 16c. Employee signature/date (Signature only indicates copy has been received, not agreement) _____   |  |   |                 |
| 17a. Revalidation of Rating of Record (Period covered) From: _____ To: _____  |  | 17b. Mandatory progress review conducted on _____   |                 |
| 17c. Rater name/title/signature/date _____  |  | 17d. Reviewing Official name/title/signature/date _____   |                 |
| 17e. Employee signature/date (Signature only indicates copy has been received, not agreement) _____   |  | 17f. Employee signature/date (Signature only indicates copy has been received, not agreement) _____ |                 |

Block 9 is where managers should indicate that employees were evaluated on the retention standard in compliance with RRA 98 Section 1204(b).

Source: Form 6850-BU.

It is important that the IRS ensures employees understand the retention standard because it can directly affect interactions with taxpayers and the employee’s ability to safeguard taxpayer



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rights. We reported<sup>5</sup> this issue during a prior TIGTA review and the IRS agreed to take corrective actions. In December 2009, the IRS revised Block 9 of Forms 6850-BU and 6850-NBU to label the retention standard rating as the “Fair and Equitable Treatment of Taxpayers Retention Standard” and to define the Section 1204(b) standard in the instructions attached to each of the Forms as part of the corrective action. Based on our results, IRS efforts to conduct the mandatory Section 1204 training in FY 2011 indicates the IRS is being proactive in obtaining full compliance with Section 1204 requirements.

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<sup>5</sup> *Fiscal Year 2008 Statutory Audit of Compliance With Legal Guidelines Restricting the Use of Records of Tax Enforcement Results* (Reference Number 2008-40-108, dated April 17, 2008).



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## Appendix I

### *Detailed Objective, Scope, and Methodology*

The overall objective of this review was to determine whether the IRS complied with restrictions on the use of enforcement statistics to evaluate employees as set forth in RRA 98 Section 1204.<sup>1</sup> To accomplish this objective, we:

- I. Selected a judgmental sample of 40 managers from a population of 5,139 first-line and second-line managers to determine whether they complied with the provisions of RRA 98 Sections 1204(a) and 1204(b) when evaluating their Section 1204 employees'<sup>2</sup> performance.

- A. Identified the Office of the Chief Financial Officer; the Office of the Chief, Appeals; the Office of the Chief, Criminal Investigation; the Office of the National Taxpayer Advocate; the Large Business and International Division;<sup>3</sup> the Small Business/Self-Employed Division; the Tax Exempt and Government Entities Division; and the Wage and Investment Division office locations in various cities and the number of Section 1204 first-line managers located in each business organization.

We judgmentally selected five cities for this year's audit. Onsite reviews were performed at the IRS field offices in Denver, Colorado; New York City, New York; Philadelphia, Pennsylvania; Houston, Texas; and Seattle, Washington. We used FY 2010 data to select the audit sites for the sample. The audit sites were judgmentally selected based on the number of Section 1204 first-line managers located at a site and the business organizations represented, prior audit coverage in FYs 2004 through 2010,<sup>4</sup> geographical location of potential cities for travel considerations, and sites where the IRS internal review team identified problems.

- B. Selected a judgmental sample of seven first-line managers per city and three Section 1204 employees for each manager in our sample. We selected managers and employees from five sites that had at least six business organizations with Section 1204 first-line managers who had not been reviewed recently by the TIGTA or IRS independent reviews. This provided a total of 35 managers and

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<sup>1</sup> Pub. L. No. 105-206, 112 Stat. 685 (codified as amended in scattered sections of 2 U.S.C., 5 U.S.C. app., 16 U.S.C., 19 U.S.C., 22 U.S.C., 23 U.S.C., 26 U.S.C., 31 U.S.C., 38 U.S.C., and 49 U.S.C.).

<sup>2</sup> An enforcement (Section 1204) employee is an employee or any manager of an employee who exercises judgment in recommending or determining whether or how the IRS should pursue enforcement of the tax laws or who provides direction/guidance for Section 1204 program activities.

<sup>3</sup> Formerly referred to as the Large and Mid-Size Business Division.

<sup>4</sup> We reviewed locations visited during prior audits to ensure locations selected were not duplicated.



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- 105 employees for review. We obtained the FY 2010 performance evaluation documents prepared by the manager (including mid-year performance reviews, annual performance reviews, and workload reviews) to determine whether ROTERs were used in the evaluation process and employees were evaluated appropriately on the fair and equitable treatment of taxpayers.
- C. Determined that training records did not have to be reviewed as no ROTERs had been found in managers or employees evaluations or self-assessments.
  - D. Interviewed a judgmental sample of 32 Section 1204 employees concerning the use of ROTERs and their understanding of the retention standard. We judgmentally selected 32 employees from the IRS sites visited. The overall population could not be determined because the sample was selected based on the employees in the office the day of our visits. If available, new employees were interviewed as well.
  - E. Selected and reviewed a judgmental sample of five second-line managers' management performance evaluation documentation (i.e., mid-year performance reviews, annual performance reviews) for the inappropriate use of ROTERs. We focused on second-line managers whose performance documentation was located in the same cities as the first-line managers for each of the five sites selected for review.
- II. Determined whether the 40 selected first-line and second-line managers complied with RRA 98 Section 1204(c) by certifying by letter whether or not ROTERs were used in a manner prohibited by RRA 98 Section 1204(a).
- A. Obtained FY 2010 second and fourth quarter self-certifications for the selected first-line managers.
  - B. Reviewed the self-certifications for compliance with IRS procedures.

**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 the following internal controls were relevant to our audit objective: guidelines and rules related to using ROTERs in a way as to improperly influence the handling of taxpayer cases and employees understanding and adherence to the retention standard. We evaluated these controls and reviewed judgmental samples of performance appraisals and signed self-certifications to determine whether the IRS complied with restrictions on the use of enforcement statistics when evaluating its employees.



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**Appendix II**

*Major Contributors to This Report*

Margaret E. Begg, Assistant Inspector General for Audit (Compliance and Enforcement Operations)  
Frank Jones, Director  
L. Jeff Anderson, Audit Manager  
Paul Baker, Lead Auditor  
Andrea Barnes, Senior Auditor  
Margaret Filippelli, Senior Auditor  
Carol Gerkens, Senior Auditor  
Gwendolyn Green, Senior Auditor  
Lynn Ross, Senior Auditor  
Nancy Vanhouten, Senior Auditor Evaluator



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## **Appendix III**

### *Report Distribution List*

Commissioner  
Office of the Commissioner – Attn: Chief of Staff C  
Deputy Commissioner for Services and Enforcement SE  
Commissioner, Large Business and International Division SE: LB  
Commissioner, Small Business/Self-Employed Division SE: S  
Commissioner, Tax Exempt and Government Entities Division SE: T  
Commissioner, Wage and Investment Division SE:W  
Chief, Appeals AP  
Chief Counsel CC  
National Taxpayer Advocate TA  
Chief, Criminal Investigation SE:CI  
Chief Financial Officer OS:CFO  
Director, Communications, Liaison, and Disclosure, Small Business/Self-Employed Division  
SE:S:CLD  
Director, Strategy and Finance, Wage and Investment Division SE:W:S  
Chief, Performance Improvement, Wage and Investment Division SE:W:S:PI  
Director, Office of Legislative Affairs CL:LA  
Director, Office of Program Evaluation and Risk Analysis RAS:O  
Office of Internal Control OS:CFO:CPIC:IC  
Audit Liaisons:  
    Commissioner, Large Business and International Division SE:LB  
    Commissioner, Small Business/Self-Employed Division SE:S  
    Commissioner, Tax Exempt and Government Entities Division SE:T  
    Commissioner, Wage and Investment Division SE:W  
    Chief, Appeals AP:TP:SS  
    Chief, Criminal Investigation SE:CI  
    Chief Financial Officer OS:CFO  
    National Taxpayer Advocate TA



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## **Appendix IV**

### *Prior Audit Reports*

The TIGTA has previously performed 12 audits in this subject area. The audit reports were:

*Fiscal Year 2010 Statutory Audit of Compliance With Legal Guidelines Restricting the Use of Records of Tax Enforcement Results* (Reference Number 2010-30-076, dated July 23, 2010).

*Fiscal Year 2009 Statutory Audit of Compliance With Legal Guidelines Restricting the Use of Records of Tax Enforcement Results* (Reference Number 2009-30-091, dated June 30, 2009).

*Fiscal Year 2008 Statutory Audit of Compliance With Legal Guidelines Restricting the Use of Records of Tax Enforcement Results* (Reference Number 2008-40-108, dated April 17, 2008).

*Fiscal Year 2007 Statutory Audit of Compliance With Legal Guidelines Restricting the Use of Records of Tax Enforcement Results* (Reference Number 2007-40-055, dated March 20, 2007).

*Fiscal Year 2006 Statutory Audit of Compliance With Legal Guidelines Restricting the Use of Records of Tax Enforcement Results* (Reference Number 2006-40-095, dated June 6, 2006).

*Fiscal Year 2005 Statutory Audit of Compliance With Legal Guidelines Restricting the Use of Records of Tax Enforcement Results* (Reference Number 2005-40-157, dated September 21, 2005).

*Fiscal Year 2004 Statutory Audit of Compliance With Legal Guidelines Restricting the Use of Records of Tax Enforcement Results* (Reference Number 2004-40-066, dated March 19, 2004).

*Fiscal Year 2003 Statutory Audit of Compliance With Legal Guidelines Restricting the Use of Records of Tax Enforcement Results* (Reference Number 2003-40-090, dated March 27, 2003).

*Compliance With Regulations Restricting the Use of Records of Tax Enforcement Results Shows Improvement* (Reference Number 2002-40-163, dated September 11, 2002).



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*Compliance With the Internal Revenue Service Restructuring and Reform Act of 1998 Section 1204 Has Not Yet Been Achieved* (Reference Number 2001-10-178, dated September 27, 2001).

*Further Improvements Are Needed in Processes That Control and Report Misuse of Enforcement Statistics* (Reference Number 2000-10-118, dated September 18, 2000).

*The Internal Revenue Service Should Continue Its Efforts to Achieve Full Compliance with Restrictions on the Use of Enforcement Statistics* (Reference Number 1999-10-073, dated September 29, 1999).



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**Appendix V**

*Manager's Quarterly Self-Certification – No Violations (Form 1204-M)*

| <b>Manager's Quarterly Self-Certification – No Violations</b>   |   |
|---|---|
| RRA 98 Section 1204   |   |
| Name of Manager   | Title   |
| Organization  | Quarter ending <i>(select correct quarter from drop down)</i> |
| <input type="checkbox"/> I certify to the best of my knowledge that during this quarter I was in compliance with the IRS Restructuring and Reform Act of 1998 (RRA 98) Section 1204(a) and 1204(b).   |   |
| Certification Process   |   |
| <p>The quarterly certification process is a formal process required by statute to ensure managerial accountability and compliance with Section 1204. The process specifically addresses the following:</p> <ul style="list-style-type: none"> <li>• <b>Section 1204(a) In General</b> -The IRS shall not use records of tax enforcement results (1) to evaluate employees; or (2) to impose or suggest production quotas or goals with respect to such employees.</li> <li>• <b>Section 1204(b) (Retention Standard) Taxpayer Service</b> - The IRS shall use fair and equitable treatment of taxpayers by employees as one of the standards for evaluating employee performance.</li> </ul> <p><b>To comply with Section 1204(a), I have not:</b></p> <ul style="list-style-type: none"> <li>• Used records of tax enforcement results (ROTERTs) in any written performance evaluations prepared or reviewed, including appraisals, awards, or promotion justifications</li> <li>• Used records of tax enforcement results (ROTERTs) to impose or suggest production quotas or goals with respect to field activities (e.g. through program guidance or business and program reviews)</li> <li>• Communicated to employees, verbally or in writing, that records of tax enforcement results affected their evaluations, or were used to set individual/group production goals or quotas</li> </ul> <p><b>To comply with Section 1204(b), all employees in my organization have:</b></p> <ul style="list-style-type: none"> <li>• Signed for receipt of the Retention Standard annually</li> <li>• Been evaluated on the Retention Standard annually</li> </ul> <p>I have provided a copy of this self-certification to my next level manager and retained a file copy to be available for audit or review.</p> |   |
| Manager's signature   | Date signed   |
| Next-level Manager's signature <i>(Section 1204 Appropriate Managers do not need to forward for next level signatures)</i>  | Date signed   |

Source: Internal forms on the IRS web site.



*Fiscal Year 2011 Statutory Audit of Compliance With Legal Guidelines Restricting the Use of Records of Tax Enforcement Results*

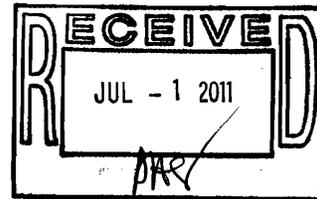
**Appendix VI**

*Management's Response to the Draft Report*



CHIEF FINANCIAL OFFICER

DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224



June 29, 2011

MEMORANDUM FOR MICHAEL R. PHILLIPS  
DEPUTY INSPECTOR GENERAL FOR AUDIT

FROM: Pamela J. LaRue   
Chief Financial Officer

SUBJECT: Draft Audit Report – Fiscal Year 2011 Statutory Audit of Compliance with Legal Guidelines Restricting the Use of Records of Tax Enforcement Results (Audit # 201130011)

Thank you for the opportunity to review and respond to the draft audit report titled, "Fiscal Year 2011 Statutory Audit of Compliance with Legal Guidelines Restricting the Use of Records of Tax Enforcement Results" (Audit # 201130011). We agree with the report language and conclusions.

We are pleased with your acknowledgement that the IRS did achieve full compliance with Section 1204(a), (b), and (c) requirements. We are also pleased with your acknowledgment of our efforts to 1) ensure that managers are not using ROTERS to evaluate employees or to suggest/impose production goals/quotas, 2) help to protect the rights of taxpayers and 3) educate IRS managers and employees through ELMS training to understand the retention standard terminology.

If you have any questions, please contact Peter Rose, Acting Associate Chief Financial Officer, Corporate Planning and Internal Control, at (202) 622-4508.