



Treasury Inspector General for Tax Administration Office of Audit

FISCAL YEAR 2011 STATUTORY REVIEW OF RESTRICTIONS ON DIRECTLY CONTACTING TAXPAYERS

Issued on September 16, 2011

Highlights

Highlights of Report Number: 2011-30-090 to the Internal Revenue Service Commissioners for the Large Business and International Division and Small Business/Self-Employed Division.

IMPACT ON TAXPAYERS

Internal Revenue Service (IRS) employees are required to stop an interview if the taxpayer requests to consult with a representative and may not bypass a representative without supervisory approval. Between October 2009 and September 2010, TIGTA's Office of Investigations closed five complaints involving allegations that IRS personnel improperly bypassed a taxpayer representative.

WHY TIGTA DID THE AUDIT

This audit was initiated because TIGTA is required to annually report on the IRS's compliance with Internal Revenue Code Sections 7521(b)(2) and (c). The overall objective of this audit was to determine whether the IRS complied with the legal guidelines addressing the direct contact of taxpayers and their representatives.

WHAT TIGTA FOUND

TIGTA varied the scope of its review this year to include discussions with, and analysis of, information received from tax representatives and personnel from the IRS's Large Business and International (LB&I) Division who reached out to TIGTA about concerns they had over potential unreported direct contact violations. TIGTA also evaluated a judgmental sample of 20 out of 2,168 large corporate audits that were open in the LB&I Division at the time of this review. TIGTA's results indicate the IRS may be at greater risk of infringing upon the direct contact provisions during audits than the small number of complaints filed with TIGTA's Office of Investigations indicate.

Twelve tax representatives provided written accounts of their experiences where they believe examiners were starting audits without the authorized representative or insisting on interviewing taxpayers after they had secured representation. In addition, three IRS employees told TIGTA some examiners

routinely contact taxpayers initially when starting an audit regardless of whether a valid Power of Attorney and Declaration of Representative (Form 2848) was filed with the IRS. Further, TIGTA's review of 20 open large corporate audits found four instances where examiners contacted taxpayers to begin the audit even though the Form 2848 was in IRS files.

WHAT TIGTA RECOMMENDED

TIGTA recommended that the Deputy Commissioner (Operations), LB&I Division, ensure examiners use available information systems to involve tax representatives in the opening stages of the audit. TIGTA also recommended that the Deputy Commissioner (Operations), LB&I Division, and the Director, Examination, Small Business/Self-Employed Division, coordinate in initiating actions to review and revise, as needed, the language in audit initiation letters so it is clear that representatives can attend all audit appointments on behalf of the taxpayer and provide an annual refresher briefing for examiners on the importance of adhering to the processes designed to recognize taxpayer representation.

IRS officials agreed with two recommendations. The IRS plans to provide written guidance on using IRS data systems to identify power of attorney information and review the audit contact letter for needed revisions. IRS officials did not concur with providing refresher training, citing recent updates to guidelines and possible changes to the audit contact letter. TIGTA believes this recommendation remains valid.

READ THE FULL REPORT

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

<http://www.treas.gov/tigta/auditreports/2011reports/201130090fr.pdf>.

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