



## Treasury Inspector General for Tax Administration Office of Audit

### IMPROVEMENTS ARE NEEDED TO ENSURE THE CENTRAL WITHHOLDING AGREEMENT PROGRAM FOSTERS NONRESIDENT ALIEN WITHHOLDING COMPLIANCE

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## Highlights

Highlights of Report Number: 2011-30-117 to the Internal Revenue Service Commissioner for the Large Business and International Division.

### IMPACT ON TAXPAYERS

Internal Revenue Code Section 1441 generally requires that any United States (U.S.) or foreign person having control of certain U.S. source income must withhold 30 percent of the gross income prior to any payments made to a nonresident alien (NRA) individual or partnership. The purpose of a Central Withholding Agreement (CWA) is to reduce the 30 percent withholding tax rate to be more in line with an NRA's annual projected tax liability. However, if NRAs who enter into CWAs are allowed to improperly reduce their withholding, the Federal Government's interest may not be protected.

### WHY TIGTA DID THE AUDIT

This audit was initiated to determine whether the CWA Program is working as intended. This audit is included in our Fiscal Year 2011 Annual Audit Plan and addresses the major management challenge of Globalization.

### WHAT TIGTA FOUND

CWA Program management has taken positive actions to ensure sensitive information is not transmitted via email to NRAs or their representatives. However, managerial oversight of the CWA Program needs improvement. There is no managerial guidance or a quality review process to ensure cases were properly processed. In 25 of 133 closed cases, tax specialists did not take timely and appropriate action. In 37 closed cases, documentation was missing and/or incomplete. Inconsistencies were found in 13 of 47 CWA closed cases with approving and denying CWA applications based on the timeliness of the submission.

CWA specialists do not have detailed guidance for making a determination of ordinary and necessary business expenses for justifying a reduction of income for determining the proper withholding rate under CWAs.

In addition, there was no consistency in the methodology for conducting site visits or the amount of information captured in the site visitation reports. The CWA Program has not established performance goals, and current measures do not show whether it is fostering NRA compliance.

### WHAT TIGTA RECOMMENDED

TIGTA recommended that the Director, International Individual Compliance, Large Business and International Division, establish performance goals and identify a method for measuring the level to which the CWA Program is fostering compliance. To ensure effective oversight, a quality review process and managerial guidance should be established. Additional training should be given to CWA tax specialists on evaluating ordinary and necessary business expenses submitted with the CWA requests. Procedures should be revised to provide clearer guidance that includes a methodology for conducting site visits and preparing site visitation reports.

In their response to the report, IRS management agreed with 10 of the 11 recommendations. Management stated they plan to establish goals and a standard for measuring program performance and effectiveness. They plan to determine if CWA cases can be incorporated into their current Quality Measurement System Program and establish managerial guidance. Future training is planned for CWA tax specialists. A standard Site Visit Request Form is to be used to ensure the decision-making process is properly documented before a site visit request is made. However, management disagreed with the recommendation to revise CWA tax specialist procedures to require that NRAs have either a Social Security Number or an Individual Taxpayer Identification Number in order to receive a CWA.

### 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/201130117fr.pdf>