



Treasury Inspector General for Tax Administration Office of Audit

AFFORDABLE CARE ACT: THE NUMBER OF TAXPAYERS FILING TANNING EXCISE TAX RETURNS IS LOWER THAN EXPECTED

Issued on September 22, 2011

Highlights

Highlights of Report Number: 2011-40-115 to the Internal Revenue Service Commissioners for the Small Business/Self-Employed Division and the Wage and Investment Division.

IMPACT ON TAXPAYERS

The Patient Protection and Affordable Care Act and the Health Care and Education Reconciliation Act were signed into law in March 2010. This legislation contains revenue provisions anticipated to generate \$438 billion in the form of new taxes, fees, and penalties. One of these new taxes is an excise tax on indoor tanning services (tanning tax) which became effective on July 1, 2010, and is 10 percent of the amount paid for tanning services. The tax is paid by the person receiving the service and is collected by the service provider. The tanning tax is due and payable quarterly.

WHY TIGTA DID THE AUDIT

This audit was initiated because the tanning tax was a new provision in the law that became effective soon after passage, which increased the potential risks involved with implementation. It has been estimated that there could be about 25,000 tanning businesses affected by the tax. The objective of our audit was to determine whether the Internal Revenue Service (IRS) effectively implemented this tax.

WHAT TIGTA FOUND

The IRS developed an outreach plan, updated the excise tax form and instructions, and made preparations for receiving and processing tax returns with the tax. In addition, the IRS developed a plan for dealing with noncompliance, including initiating audits and issuing notices to taxpayers who may potentially owe the tax.

The number of taxpayers filing tanning services excise tax returns is much lower than expected. According to IRS documents, in April 2010, the Indoor Tanning Association estimated that 25,000 businesses were providing indoor tanning services. However, the actual number of businesses liable for the tax has been difficult to determine with any degree of accuracy. Identifying these taxpayers has been one of the more challenging

tasks the IRS has faced when implementing this provision. For the first three applicable quarters, the number of Federal excise tax forms reporting tanning taxes has averaged approximately 10,300.

The IRS could have taken more timely actions to contact taxpayers who may owe the tax. By the time notices were issued, tanning excise tax returns had been due for three quarters. Late filing of these returns would result in the taxpayer owing the unpaid tax, plus interest and penalties. In addition, the information used to identify these taxpayers appears incomplete. Furthermore, TIGTA advised the IRS that the notice did not contain some pertinent information. The IRS added this information before mailing.

Finally, the publication containing information about excise tax requirements was not updated until more than a year had passed since the provision became effective.

WHAT TIGTA RECOMMENDED

TIGTA recommended that the IRS perform further analyses of the data sources used, including records with incomplete address information, to determine whether a large number of tanning businesses were not identified, monitor the results from the notice mailing to determine whether additional data sources are warranted, and update the excise tax publication to include tanning tax information.

In their response to the report, IRS officials agreed with our recommendations. The IRS plans to perform the analysis suggested, monitor the results of the notice mailing, and consider additional actions based on the results. The excise tax publication was revised in July 2011 to include tanning tax information.

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/201140115fr.pdf>

Email Address: TIGTACommunications@tigta.treas.gov

Phone Number: 202-622-6500

Web Site: <http://www.tigta.gov>