



## Treasury Inspector General for Tax Administration Office of Audit

### PROCEDURES ARE NEEDED TO IMPROVE THE ACCOUNTING AND MONITORING OF RESTITUTION PAYMENTS TO PREVENT ERRONEOUS REFUNDS

Issued on January 27, 2012

## Highlights

Highlights of Report Number: 2012-30-012 to the Internal Revenue Service Chief, Criminal Investigation.

### IMPACT ON TAXPAYERS

When a defendant pleads guilty or is found guilty of a tax-related crime, the terms of a defendant's sentence can include various combinations of imprisonment, probation, and monetary penalties such as fines and restitution. Probation and restitution act to discourage similar criminal violations by others. However, the perception has grown that many defendants, despite being convicted of violating the tax laws, are escaping all responsibility for the payment of the taxes associated with the offenses they committed. This perception can erode taxpayers' confidence in the IRS's ability to collect taxes from defendants and weakens its administration of all tax laws.

### WHY TIGTA DID THE AUDIT

This audit was initiated as part of our Fiscal Year 2010 Annual Audit Plan and addresses the major management challenges of Tax Compliance Initiatives and Erroneous and Improper Payments and Credits. The overall objective of this review was to determine whether defendants convicted of tax-related crimes are held responsible for the payment of the taxes associated with the offenses they committed.

### WHAT TIGTA FOUND

The IRS does not have effective internal controls to ensure defendants convicted of tax-related crimes comply with conditions of probation and restitution. Specifically, the IRS's inability to properly account for restitution payments resulted in the issuance of erroneous refunds to three defendants and 16 taxpayers totaling approximately \$543,000. In addition, the IRS's systems for monitoring defendants' compliance with the conditions of probation and restitution are neither effective nor reliable. TIGTA's analysis of data used to monitor defendants identified inaccurate tax account data totaling approximately \$330,000 for 25 defendants. TIGTA also determined that Criminal Investigation

inconsistently used the refund offset procedure to collect restitution payments. Finally, the IRS was not always granted restitution by the courts in cases where it appeared to be warranted.

### WHAT TIGTA RECOMMENDED

TIGTA made several recommendations to the Chief, Criminal Investigation, to address internal control weaknesses regarding accurate accounting for restitution payments, including preventing the issuance of erroneous refunds. In addition, TIGTA made recommendations to establish a single database for monitoring defendants, revise guidelines for earlier notification to Criminal Investigation of the status of convicted individuals' adherence to conditions of probation and restitution, and obtain the IRS Office of Chief Counsel's opinion on the use of refund offsets. Finally, Criminal Investigation should document in its investigative files why restitution was not included in sentences to identify factors that hinder the IRS being granted restitution.

In their response to the report, IRS officials agreed with the recommendations and stated that corrective actions are planned or have already been taken to address them.

### READ THE FULL REPORT

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

<http://www.treas.gov/tigta/auditreports/2012reports/201230012fr.pdf>