



*Fiscal Year 2012 Statutory Audit of
Compliance With Legal Guidelines
Restricting the Use of Records of
Tax Enforcement Results*

August 7, 2012

Reference Number: 2012-30-090

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.

Phone Number | 202-622-6500

E-mail Address | TIGTACommunications@tigta.treas.gov

Website | <http://www.tigta.gov>



HIGHLIGHTS

FISCAL YEAR 2012 STATUTORY AUDIT OF COMPLIANCE WITH LEGAL GUIDELINES RESTRICTING THE USE OF RECORDS OF TAX ENFORCEMENT RESULTS

Highlights

Final Report issued on August 7, 2012

Highlights of Reference Number: 2012-30-090 to the Internal Revenue Service Deputy Commissioner for Operations Support.

IMPACT ON TAXPAYERS

The 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 RRA 98 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 RRA 98 Section 1204(a) requirements. Our review found that managers had not included ROTERs in performance evaluation documents for the 145 employees reviewed.

The IRS also achieved full compliance with RRA 98 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 that ROTERs were not used to evaluate employees.

In Fiscal Year 2011, the IRS launched mandatory RRA 98 Section 1204 training for managers and employees. TIGTA selected a judgmental sample of 15 employees and found a high percentage of employees understood the term "retention standard." However, 13 percent were not sure they attended retention standard training.

WHAT TIGTA RECOMMENDED

TIGTA recommended that the Deputy Commissioner for Operations Support strengthen the IRS's efforts to achieve full compliance with RRA 98 Section 1204 procedures by continuing the emphasis on training.

The IRS agreed with the recommendation and plans to evaluate its current training and consider enhancing its program material, if appropriate, to ensure that IRS employees fully understand the training.



TREASURY INSPECTOR GENERAL
FOR TAX ADMINISTRATION

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

August 7, 2012

MEMORANDUM FOR DEPUTY COMMISSIONER FOR OPERATIONS SUPPORT

A handwritten signature in black ink, appearing to read "Michael E. McKenney".

FROM: Michael E. McKenney
Acting Deputy Inspector General for Audit

SUBJECT: Final Audit Report – Fiscal Year 2012 Statutory Audit of Compliance With Legal Guidelines Restricting the Use of Records of Tax Enforcement Results (Audit # 201230009)

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 1204.¹ 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 employees² using any record of tax enforcement results (ROTER) or base employee successes on meeting goals and quotas for ROTERS. This review is part of our Fiscal Year 2012 Annual Audit Plan and addresses the major management challenge of Taxpayer Protection and Rights.

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 recommendation. Please contact me at (202) 622-6510 if you have questions or Frank Dunleavy, Acting Assistant Inspector General for Audit (Compliance and Enforcement Operations), at (213) 894-4470 (Ext. 128).

¹ 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.).

² 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 RRA 98 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 of the United States signed the Internal Revenue Service (IRS) Restructuring and Reform Act of 1998 (RRA 98) into law.¹ 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.

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

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

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 ROTTERs 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.² 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 ROTTERs in a manner prohibited by RRA 98 Section 1204(a). The

¹ 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.).

² 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 RRA 98 Section 1204 program activities.



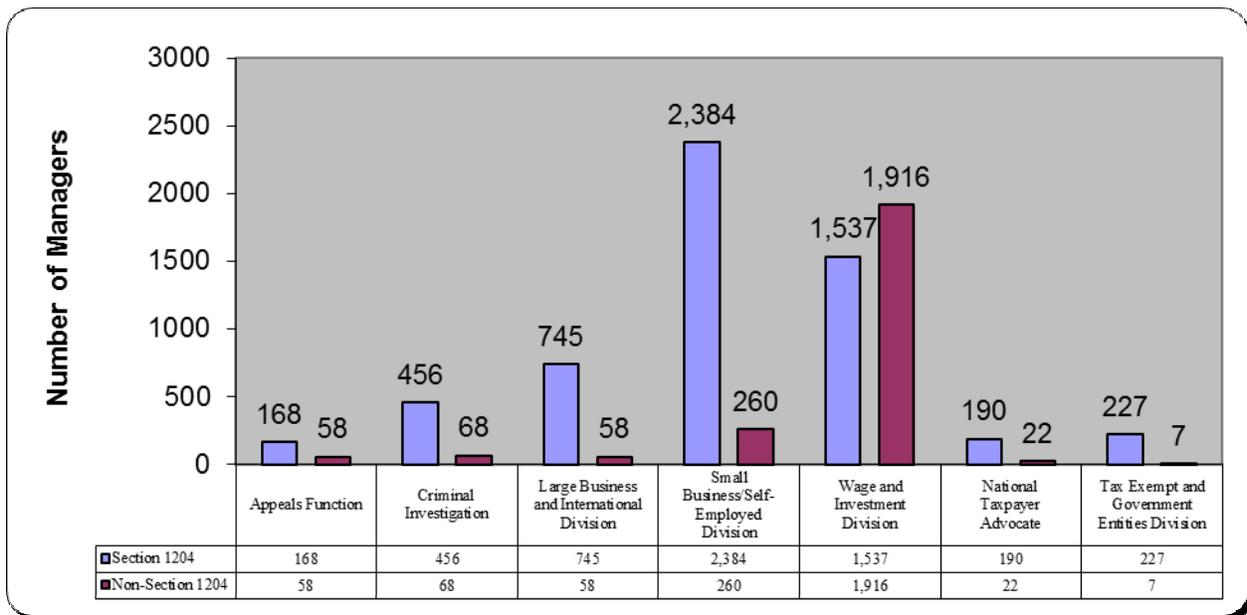
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appropriate supervisor then prepares a consolidated office certification covering the entire organizational unit.

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; 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 RRA 98 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 June 30, 2011. 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 June 30, 2011)**



Source: Our analysis of data from the IRS's Corporate Planning and Internal Control database.

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 13 annual reviews to meet this requirement. Appendix IV lists the prior audit reports.



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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 2011 through April 2012.

Onsite reviews were performed at the IRS field offices in Phoenix, Arizona; Plantation, Florida; Baltimore, Maryland; Boston, Massachusetts; and Austin, Texas. 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 findings and 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) 2011.³ Each manager certified whether or not ROTERs were used when evaluating employees. Appendix V reflects the Form 1204-M, *Manager's Quarterly Self-Certification – No Violations*, that managers use to self-certify that there are no violations of RRA 98 Sections 1204(a) and (b).

RRA 98 Section 1204(c) requires specific 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,⁴ 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.

³ A judgmental sample is a nonstatistical sample, the results of which cannot be used to project to the population.

⁴ Internal Revenue Manual 1.5.3 (Nov. 23, 2010).



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

In FY 2011, the IRS achieved full compliance with the Section 1204 employee or manager performance-related documents reviewed.

To evaluate the IRS's compliance with RRA 98 Sections 1204(a) and 1204(b), we selected a judgmental sample of 35 first-line Section 1204 managers and 105 employees in five sites.⁵ We selected seven managers and three of their employees at each site and reviewed their performance evaluation documents. We also reviewed the performance documents for five second-line Section 1204 managers. We evaluated a total of 418

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

FY 2011 performance-related documents, including mid-year and annual performance reviews, employee self-assessments, and workload reviews documentation for the 145 employees, to determine whether ROTERs were used when evaluating employees' performance.

Based on the results of our review, we believe 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.

Mandatory Section 1204 Training Is Increasing Employee Awareness of the Retention Standard

In FY 2011, the IRS established mandatory RRA 98 Section 1204 training for all managers and employees. The training began March 1, 2011, and continued through September 30, 2011. To evaluate the effectiveness of the IRS's training during FY 2011, we interviewed a judgmental sample of 15 Section 1204 employees to determine if they had received training and understood the terminology "retention standard." Specifically, we determined that:

- 14 (93 percent) of the employees understood the term "retention standard."
- 13 (87 percent) of the employees were sure they attended training on this topic.

⁵ See Appendix I for details of the IRS offices and five cities selected for our review.



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These percentages are a significant improvement over our prior year's report,⁶ in which we reported that 72 percent of the sampled employees understood the term, and only 59 percent were sure they had received training related to the retention standard in FY 2010.

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 and the standard applies to all executives, managers, and other employees.

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 of the employees sampled, Block 9 of the Form 6850-BU, *Bargaining Unit Performance Appraisal and Recognition Election*, or Form 6850-NBU, *Non-Bargaining Unit Performance Appraisal*, was checked indicating that the employees were evaluated on this standard. Figure 2 presents an example of the Form 6850-BU pertaining to the retention standard.

⁶ TIGTA, Ref. No. 2011-30-069, *Fiscal Year 2011 Statutory Audit of Compliance With Legal Guidelines Restricting the Use of Records of Tax Enforcement Results* (Jul. 2011).



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Figure 2: Example of a Form 6850-BU Retention Standard Rating

Bargaining Unit Performance Appraisal and Recognition Request			
(Review instructions before completing this form)			
1. Name of employee (Last, first, middle initial)	2. Last 4 digits of SSN	3. Reason for Appraisal <input type="checkbox"/> Annual Rating <input type="checkbox"/> Departure <input type="checkbox"/> Merit Promotion Appraisal <input type="checkbox"/> Appraisal <input type="checkbox"/> Other	
4. Office symbols/Organization	5. Pay plan, series and grade	8. Mandatory progress review was conducted on	
6. Position title	7. Period covered From: To:		
9. Fair and Equitable Treatment of Taxpayers Retention Standard Rating <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 Exceeds Meets Falls N/A	13. CJE Ratings
I. Employee Satisfaction – Employee Contribution	A. Workplace Interaction B. Workgroup Involvement C. Workplace Environment		
II. Customer Satisfaction – Knowledge	A. B. C. D. E.		
III. Customer Satisfaction – Application	A. B. C. D. E.		
IV. Business Results – Quality	A. B. C. D. E.		
V. Business Results – Efficiency	A. B. C. D. E.		
14. Overall rating <input type="checkbox"/> Outstanding <input type="checkbox"/> Fully Successful <input type="checkbox"/> Unacceptable <input type="checkbox"/> Exceeds Fully Successful <input type="checkbox"/> Minimally Successful <input type="checkbox"/> Not Ratable Reason for not ratable:	15. Average CJE Score		
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.			
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. Mandatory progress review conducted on	
17g. Rater name/title/signature/date		17h. Reviewing Official name/title/signature/date	
17i. Employee signature/date (Signature only indicates copy has been received, not agreement)		17j. Mandatory progress review conducted on	

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.

In addition, we judgmentally selected seven second-line Section 1204 managers from each IRS function or operating division to obtain their feedback on the FY 2011 training. All seven of the managers thought the course material was comprehensive and beneficial. However, five (71 percent) of the managers responded they did not instruct their first-line managers to have follow-up meetings with their employees to ensure they understood the training.

Most employees understood the terminology, but some were not sure they received retention standard training

A high percentage of employees understood the term “retention standard.” However, 13 percent were not sure they attended retention standard training. On February 11, 2011, the IRS announced the mandatory RRA Section 1204 training, which was staggered to accommodate the operating and functional divisions’ workloads.



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The training was required to ensure that Section 1204 employees and managers understand:

- The rules for appropriately using statistics in setting goals and measuring performance.
- The requirements for sharing and evaluating the Fair and Equitable Treatment of Taxpayers Retention Standard.
- The process for quarterly certification of compliance with Section 1204 requirements.
- That annual program reviews are conducted by the Chief Financial Officer and the TIGTA to assess Section 1204 compliance.

The training/briefing course was taken individually by employees through the Enterprise Learning Management System⁷ and took approximately 30 minutes to complete. Figure 3 shows the introduction to the new mandatory training.

Figure 3: Introduction to Section 1204 Employees Briefing

RRA 98 Managing Statistics - Section 1204 Employee Briefing



Welcome to the Mandatory Managing Statistics Briefing for Section 1204 Employees

This briefing will help you understand how your manager may appropriately use statistics in evaluating your performance or in suggesting or imposing performance goals or objectives.

This briefing is intended for Section 1204 employees. It should take approximately 30 minutes to complete.

There are Yes and No practice questions used throughout this briefing to reinforce key points. Your responses are not recorded.

Source: IRS Chief Financial Officer.

⁷ A computer application that provides training, administration, and training resource management (*i.e.*, instructors, classroom, and all web resources for learning) to the IRS.



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Based on the results of our review, the IRS's efforts to conduct the mandatory RRA 98 Section 1204 training in FY 2011 indicate that the IRS is being proactive in obtaining full compliance with Section 1204 requirements. However, continued emphasis is needed to ensure all Section 1204 employees are aware of the importance of the RRA 98 Section 1204 training.

Recommendation

Recommendation 1: The Deputy Commissioner for Operations Support should strengthen the IRS's efforts to achieve full compliance with RRA 98 Section 1204 procedures by continuing the emphasis on training. This effort could include expanding the training to at least one hour by adding additional practice questions and more in-depth responses to incorrect answers to ensure the employees fully understand the training.

Management's Response: IRS management agreed with this recommendation. The Chief Financial Officer will evaluate the current Enterprise Learning Management System Section 1204 training module and consider enhancing the program material, if appropriate, to ensure that IRS employees fully understand the training.



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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 1204.¹ To accomplish this objective, we:

- I. Selected a judgmental sample² of 40 managers from a population of 5,707 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 employees³ 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; 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 Phoenix, Arizona; Plantation, Florida; Baltimore, Maryland; Boston, Massachusetts; and Austin, Texas. We used FY 2011 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 2011,⁴ geographical location of potential cities for travel considerations, and whether the sites included enough Section 1204 managers and employees to satisfy our sample.

- 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

¹ 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.).

² We determined that a judgmental sample would be sufficient to identify noncompliance with RRA 98 Section 1204 and prompt management to take corrective action. A judgmental sample is a nonstatistical sample, the results of which cannot be used to project to the population.

³ 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 RRA 98 Section 1204 program activities.

⁴ We reviewed locations visited during prior audits to ensure locations selected were not duplicated.



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- employees from five sites that had at least five business organizations with Section 1204 first-line managers who had not been reviewed recently by the TIGTA or by the IRS's independent reviews. This provided a total of 35 first-line Section 1204 managers and 105 Section 1204 employees for review. We obtained the FY 2011 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 15 Section 1204 employees from the IRS sites visited concerning the use of ROTERs and their understanding of the retention standard. The overall population could not be determined because the sample was selected based on the employees in the office the day of our visits.
 - E. Selected and reviewed a judgmental sample of five second-line Section 1204 managers' management performance evaluation documentation (*i.e.*, mid-year performance reviews, annual performance reviews, *etc.*) 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 Section 1204 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 2011 second and fourth quarter self-certifications for the selected first-line managers.
 - B. Reviewed the self-certifications for compliance with IRS procedures.
- III. Determined the effectiveness of the mandatory RRA 98 Section 1204 training for managers and employees.
- A. Selected seven second-line Section 1204 managers from each function or operating division to obtain their feedback on the training.
 - B. Reviewed the documentation to determine how and when the Section 1204 training was implemented.
 - C. Reviewed the Section 1204 training materials to determine their effectiveness.
 - D. Interviewed a judgmental sample of 15 Section 1204 employees from the IRS sites visited to determine if the employees had received the RRA 98 Section 1204 training.



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The overall population could not be determined because the sample was selected based on the employees in the office the day of our visits.

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 Dunleavy, Acting Assistant Inspector General for Audit (Compliance and Enforcement Operations)
Bryce Kisler, Director
Tina Parmer, Audit Manager
Carol Gerkens, Lead Auditor
Andrea Barnes, Senior Auditor
Doris Cervantes, Senior Auditor
John Chiappino, Senior Auditor
Gwendolyn Green, Senior Auditor
Nancy Van Houten, Senior Auditor Evaluator
Frank O'Connor, Senior Program Analyst
Victor Taylor, Auditor



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Appendix III

Report Distribution List

Commissioner C
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, Criminal Investigation SE:CI
Chief Financial Officer OS:CFO
Director, Communications, Liaison, and Disclosure, Small Business/Self-Employed Division
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 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 13 audits in this subject area. The audit reports are:

TIGTA, Ref. No. 2011-30-069, *Fiscal Year 2011 Statutory Audit of Compliance With Legal Guidelines Restricting the Use of Records of Tax Enforcement Results* (Jul. 2011).

TIGTA, Ref. No. 2010-30-076, *Fiscal Year 2010 Statutory Audit of Compliance With Legal Guidelines Restricting the Use of Records of Tax Enforcement Results* (Jul. 2010).

TIGTA, Ref. No. 2009-30-091, *Fiscal Year 2009 Statutory Audit of Compliance With Legal Guidelines Restricting the Use of Records of Tax Enforcement Results* (Jun. 2009).

TIGTA, Ref. No. 2008-40-108, *Fiscal Year 2008 Statutory Audit of Compliance With Legal Guidelines Restricting the Use of Records of Tax Enforcement Results* (Apr. 2008).

TIGTA, Ref. No. 2007-40-055, *Fiscal Year 2007 Statutory Audit of Compliance With Legal Guidelines Restricting the Use of Records of Tax Enforcement Results* (Mar. 2007).

TIGTA, Ref. No. 2006-40-095, *Fiscal Year 2006 Statutory Audit of Compliance With Legal Guidelines Restricting the Use of Records of Tax Enforcement Results* (Jun. 2006).

TIGTA, Ref. No. 2005-40-157, *Fiscal Year 2005 Statutory Audit of Compliance With Legal Guidelines Restricting the Use of Records of Tax Enforcement Results* (Sept. 2005).

TIGTA, Ref. No. 2004-40-066, *Fiscal Year 2004 Statutory Audit of Compliance With Legal Guidelines Restricting the Use of Records of Tax Enforcement Results* (Mar. 2004).

TIGTA, Ref. No. 2003-40-090, *Fiscal Year 2003 Statutory Audit of Compliance With Legal Guidelines Restricting the Use of Records of Tax Enforcement Results* (Mar. 2003).

TIGTA, Ref. No. 2002-40-163, *Compliance With Regulations Restricting the Use of Records of Tax Enforcement Results Shows Improvement* (Sept. 2002).



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TIGTA, Ref. No. 2001-10-178, *Compliance With the Internal Revenue Service Restructuring and Reform Act of 1998 Section 1204 Has Not Yet Been Achieved* (Sept. 2001).

TIGTA, Ref. No. 2000-10-118, *Further Improvements Are Needed in Processes That Control and Report Misuse of Enforcement Statistics* (Sept. 2000).

TIGTA, Ref. No. 1999-10-073, *The Internal Revenue Service Should Continue Its Efforts to Achieve Full Compliance with Restrictions on the Use of Enforcement Statistics* (Sept. 1999).



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Appendix V

*Example of Form 1204-M, Manager's Quarterly
Self-Certification – No Violations*

Manager's Quarterly Self-Certification – No Violations	
RRA 98 Section 1204	
Name of Manager	Title
Organization	Quarter ending <i>(select correct quarter from drop down menu)</i>
<input type="checkbox"/> I certify to the best of my knowledge that during this quarter I was in compliance with the Restructuring and Reform Act of 1998 (RRA 98) Section 1204(a) and 1204(b).	
Certification Process	
<p>(1) 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"> a. Section 1204(a) in General -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. b. Section 1204(b) (Retention Standard) Taxpayer Service - The IRS shall use fair and equitable treatment of taxpayers by employees as one of the standards for evaluating employee performance. <p>To comply with Section 1204(a), I have not:</p> <ul style="list-style-type: none"> • Used records of tax enforcement results in any written performance evaluations prepared or reviewed, including appraisals, awards, or promotion justifications • Used records of tax enforcement results to impose or suggest production quotas or goals with respect to field activities <i>(e.g. through program guidance or business and program reviews)</i> • 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 <p>To comply with Section 1204(b), all employees in my organization have:</p> <ul style="list-style-type: none"> • Signed for receipt of the Retention Standard annually • Been evaluated on the Retention Standard annually <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 website.



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Appendix VI

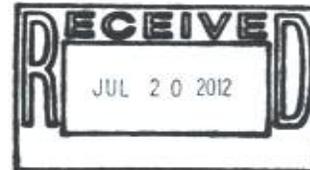
Management's Response to the Draft Report



CHIEF FINANCIAL OFFICER

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

July 18, 2012



MEMORANDUM FOR MICHAEL E. MCKENNEY
ACTING DEPUTY INSPECTOR GENERAL FOR AUDIT

FROM: Pamela J. LaRue
Chief Financial Officer

SUBJECT: Draft Audit Report – Fiscal Year 2012 Statutory Audit of
Compliance with Legal Guidelines Restricting the Use of
Records of Tax Enforcement Results (Audit # 201230009)

Thank you for the opportunity to review and respond to the draft audit report titled, "Fiscal Year 2012 Statutory Audit of Compliance with Legal Guidelines Restricting the Use of Records of Tax Enforcement Results" (Audit # 201230009). We agree with the report language and its recommendation to continue our emphasis on training.

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

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

Attachment



*Fiscal Year 2012 Statutory Audit of Compliance With
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Attachment

RECOMMENDATION 1

The Deputy Commissioner for Operations Support should strengthen the IRS's efforts to achieve full compliance with RRA 98 Section 1204 procedures by continuing the emphasis on training. This effort could include expanding the training to at least one hour by adding additional practice questions and more in-depth responses to incorrect answers to ensure the employees fully understand the training.

CORRECTIVE ACTION

The IRS agrees with this recommendation. The CFO will evaluate its current ELMS Section 1204 training module and consider enhancing its program material, if appropriate, to ensure that IRS employees fully understand the training.

IMPLEMENTATION DATE

September 30, 2013

RESPONSIBLE OFFICIAL

Chief Financial Officer

CORRECTIVE ACTION MONITORING PLAN

N/A