Treasury Inspector General for Tax Administration
Office of Audit

BANKRUPTCY PROCEDURES DESIGNED TO PROTECT TAXPAYER RIGHTS AND THE GOVERNMENT'S INTEREST WERE NOT ALWAYS FOLLOWED

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Highlights

Highlights of Report Number: 2014-30-013 to the Internal Revenue Service Commissioner for the Small Business/Self-Employed Division.

IMPACT ON TAXPAYERS

The bankruptcy automatic stay provision prohibits the IRS from taking certain collection actions against a debtor (taxpayer) as soon as it learns, or is notified by a U.S. bankruptcy court, that a bankruptcy petition has been filed. Similarly, the debtor may be granted a discharge, which remains after the case is closed and is a permanent injunction order prohibiting the IRS from taking any form of collection action against the debtor personally with respect to discharged debts. If the IRS does not observe the automatic stay or the discharge injunction, taxpayers' rights could potentially be violated and the IRS could be sued for damages.

WHY TIGTA DID THE AUDIT

In Fiscal Year 2012, IRS data showed that the Field Insolvency function received 306,920 bankruptcy cases on taxpayers owing approximately $2.5 billion in taxes, penalties, and interest. This audit was initiated to determine whether the function has effective controls and procedures in place to take appropriate and timely actions to protect the Government's interest and taxpayers' rights during bankruptcy proceedings.

WHAT TIGTA FOUND

Field Insolvency function specialists frequently did not follow required procedures when working bankruptcy cases. Although TIGTA did not identify any violations of taxpayers' rights and/or failure to protect the Government's interest during this review, there is a higher risk that this could occur when procedures are not followed.

TIGTA's review of three random samples of closed bankruptcy cases showed that specialists did not always follow established procedures in 17 (57 percent) of 30 Chapter 7 cases, 15 (50 percent) of 30 Chapter 11 cases, and 13 (43 percent) of 30 Chapter 13 cases reviewed. Specifically, specialists did not always timely or properly conduct the initial case analysis, follow up on scheduled case actions within a reasonable time, or timely or properly close cases.

TIGTA also reviewed a random sample of 30 bankruptcy cases with Automated Proof of Claim flag conditions (errors that need to be resolved by a specialist). Specialists did not timely or properly resolve the flag conditions in 12 (40 percent) of 30 cases.

WHAT TIGTA RECOMMENDED

TIGTA recommended that the Director, Field Collection, Small Business/Self-Employed Division: 1) enhance casework priorities and efficiencies; 2) ensure that specialists are properly conducting the initial analysis and closing actions; 3) ensure that the Automated Insolvency System follow-up tool is the preferred method for creating follow ups; 4) ensure that case actions are properly documented for Automated Proof of Claim flag conditions; and 5) ensure that the Flagged Cases Report is the preferred method for monitoring cases.

In their response to the report, IRS officials agreed with all of our recommendations and plan to take corrective actions.

READ THE FULL REPORT

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

http://www.treas.gov/tigta/auditreports/2014reports/201430013fr.pdf.