



## Treasury Inspector General for Tax Administration Office of Audit

### FISCAL YEAR 2014 STATUTORY REVIEW OF RESTRICTIONS ON DIRECTLY CONTACTING TAXPAYERS

Issued on September 16, 2014

## Highlights

Highlights of Report Number: 2014-30-079 to the Internal Revenue Service Commissioner for the Small Business/Self-Employed Division.

### IMPACT ON TAXPAYERS

The direct contact provisions of Internal Revenue Code Section 7521 generally require IRS personnel to stop a taxpayer interview whenever a taxpayer requests to consult with a representative, and prohibits IRS personnel from bypassing a qualified representative without supervisory approval once a taxpayer authorizes one to act on his or her behalf and informs the IRS of that authorization. A taxpayer can file a civil suit seeking monetary damages against the IRS if an IRS employee intentionally disregards these provisions by denying the taxpayer the right to appropriate representation.

### WHY TIGTA DID THE AUDIT

This audit was initiated because TIGTA is required to annually report on the IRS's compliance with the direct contact provisions of the Internal Revenue Code. The overall objective of this review was to determine whether the IRS complied with legal guidelines addressing the direct contact of taxpayers and their representatives as set forth in Internal Revenue Code Sections 7521(b)(2) and (c).

### WHAT TIGTA FOUND

The IRS has a number of policies and procedures in place to help ensure that taxpayers are afforded the right to designate an authorized representative to act on their behalf in dealing with IRS personnel in a variety of tax matters.

Each year, TIGTA focuses on one IRS office or function that interacts with taxpayers and their representatives on a routine basis. For this review, TIGTA analyzed how well the Small Business/Self-Employed Division's Examination function has ensured that its personnel are appropriately including taxpayers' representatives in its office audit activities. A review of a statistical sample of 96 tax return audits out of 77,817 office audits closed in Fiscal Year 2013 showed that tax compliance officers

are generally involving the authorized representatives in case activities.

TIGTA did find one issue that warrants clarification in the IRS's procedures. Two Internal Revenue Manual procedures provide slightly different requirements concerning what actions must be delayed while the taxpayer is obtaining representation.

### WHAT TIGTA RECOMMENDED

TIGTA recommended that the IRS ensure that consistent guidance is provided in the Examination sections of the Internal Revenue Manual, detailing the procedures for allowing taxpayers adequate time to obtain representation and for documenting case actions.

In their response to the report, IRS officials stated that they agreed with TIGTA's recommendation and plan to provide consistent guidance in the Small Business/Self-Employed Division's Examination sections of the Internal Revenue Manual detailing the procedures for allowing taxpayers adequate time to secure representation before taking any follow-up action to schedule an appointment. The guidance will clarify actions the examiner can take during the 10-business-day period and clarify adequate case file documentation.

### 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/201430079fr.pdf>.