
TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION

Office of Inspections and Evaluations



Follow-up Review of Controls Over Religious Compensatory Time

June 23, 2011

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TREASURY INSPECTOR GENERAL
FOR TAX ADMINISTRATION

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

June 23, 2011

MEMORANDUM FOR DEPUTY COMMISSIONER, OPERATIONS SUPPORT

FROM: R. David Holmgren *R. David Holmgren*
Deputy Inspector General for Inspections and Evaluations

SUBJECT: Final Inspection Report – Follow-up Review of Controls Over
Religious Compensatory Time (# IE-10-016)

This report presents the results of our inspection to determine whether corrective actions implemented by the Internal Revenue Service (IRS), in response to our February 2009 inspection report,¹ significantly reduced the potential for IRS employees to accumulate excessive religious compensatory time (RCT) balances.

Synopsis

We found that, between February 2008 and June 2010, the overall number of employees with RCT balances decreased by approximately 33 percent, and the number of employees with excessive RCT balances has decreased by nearly 37 percent. We also found that only about two percent of IRS employees have RCT balances, and the vast majority of these employees (about 81 percent) had relatively low balances. While the issue of excessive balances is not widespread within the IRS, the accumulation of excessive RCT balances increases the risk that employees may use the time for unintended purposes. This includes earning RCT and routinely not using it with the intention of receiving a lump sum payment for the balance upon separation or retirement; using RCT in place of annual or sick leave; or allowing employees to earn RCT in lieu of overtime, compensatory time or credit hours.

Additionally, we determined that a few employees earned hundreds of overtime or credit hours without first repaying the advanced RCT balances they carried. This is due in part to the IRS's decision not to include this requirement in its revised agreement with the National Treasury Employees Union (NTEU). Some managers we interviewed explained that they approve any

¹ Treasury Inspector General for Tax Administration Report Number 2009-IE-R002, *To Prevent the Possible Widespread Abuse of Religious Compensatory Time, Additional Controls are Needed* (Reference Number 2009-IE-R002, dated February 27, 2009).



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requests for RCT regardless of whether the event appeared to be a religious observance in order to avoid potential grievances and the appearance of any prejudice against an employee's faith. While the IRS has partially implemented corrective actions related to recommendations contained in our February 2009 inspection report, we believe that additional actions would further strengthen the controls to deter and prevent abuse.

Recommendations

We recommend that the IRS Human Capital Officer modify procedures to (1) require all employees (bargaining unit and non-bargaining unit) repay advanced RCT before approving voluntary requests to earn overtime, compensatory time, or credit hours and (2) develop a standardized process and mechanism for requesting, authorizing, and documenting the use of RCT. We further recommend that the IRS Human Capital Officer require that all managers and timekeepers receive training on the regulations and IRS policies concerning requesting and using RCT.

Response

IRS management provided an adequate, detailed response to our memorandum. The IRS agreed with two of our recommendations affecting bargaining unit employees. In order to implement those recommendations, the IRS and NTEU must renegotiate the provisions of the National Agreement related to use of RCT. Management believes proposing changes related to the use of RCT is not one of the major provisions that should be renegotiated during reopener negotiations.² Therefore, the IRS agreed to assess the status of RCT issues and consider proposing changes related to RCT in the next agreement.³ With regard to the recommendation related to RCT training, the IRS has agreed to consider mandatory RCT training for managers only, and plans to keep both managers and timekeepers aware of their responsibility to adhere to RCT requirements through the use of web communications. Management's complete response to the memorandum is included as Appendix V.

Please contact me at (202) 927-7048 if you have questions, or Kevin P. Riley, Director, Office of Inspections and Evaluations, at (972) 249-8355.

² During reopener negotiations in October 2011, the IRS and NTEU can submit proposals to introduce two new articles and amend five existing articles.

³ During negotiations related to the new agreement, which should start in October 2013, the IRS and NTEU can propose changes to any article in the present agreement.



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Abbreviations

AWSS	Agency-Wide Shared Services
IRM	Internal Revenue Manual
IRS	Internal Revenue Service
NTEU	National Treasury Employees Union
RCT	Religious Compensatory Time
TIGTA	Treasury Inspector General for Tax Administration



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Background

Title 5 United States Code Section 5550a, and its implementing regulations, Title 5 Code of Federal Regulations Sections 550.1001 and 550.1002 (2010),¹ provide that employees of an executive agency may modify their work schedules to work compensatory time in order to take time off because of personal religious beliefs that require abstention from work during certain periods of the workday or workweek. The time off from work is referred to as religious compensatory time (RCT), and this benefit allows employees to participate in religious observances without using annual leave or leave without pay. Although the U.S. Office of Personnel Management has the authority to prescribe regulations related to the use of RCT, each executive agency head also has the authority to prescribe regulations related to the use of RCT that provide for such exceptions as may be necessary to efficiently carry out the mission of the agency or agencies involved. Each agency should have adequate controls in place to ensure that an employee's request for RCT is for a religious purpose, and an employee is allowed to accumulate only the RCT hours required to make up for previous or planned absences from work for religious observances.

Unlike regular compensatory time, which may be granted in lieu of overtime on an hour-for-hour basis and must be used by the end of the 26th pay period from which it was earned, RCT does not expire and must only be earned and used for planned religious observances. A negative balance occurs when an employee is advanced RCT and takes time off from work for a religious observance before working the extra hours required to make up for time away from work. A positive balance occurs when an employee works extra hours to accumulate RCT before taking time off for a religious observance.

In February 2009, the Treasury Inspector General for Tax Administration (TIGTA) published a report on the use of RCT within the Internal Revenue Service (IRS).² In that report, we determined that 86 IRS employees had accumulated excessive RCT balances as a result of inadequate controls over the use of RCT.³ While the issue of excessive balances is not widespread within the IRS, the accumulation of an excessive RCT balance increases the risk that it may be used for unintended purposes. This includes earning RCT and routinely not using the leave with the intention of receiving a lump sum payment for the balance upon separation or retirement; using RCT in place of annual or sick leave; or allowing employees to earn RCT in lieu of overtime, compensatory time, or credit hours. We made several recommendations to

¹ *Federal Employees Flexible and Compressed Work Schedules Act of 1978*, Section 401, 95 Pub. L. No. 390, 92 Stat. 762.

² TIGTA Report Number 2009-IE-R002, *To Prevent the Possible Widespread Abuse of Religious Compensatory Time, Additional Controls are Needed* (Reference Number 2009-IE-R002, dated February 7, 2009).

³ The IRS defines an excessive RCT balance as 80 or more hours, either positive or negative.



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improve controls over RCT use, and reduce the potential for its widespread abuse. The IRS Human Capital Officer and the Chief, Agency-Wide Shared Services (AWSS), concurred with our recommendations and agreed to implement corrective actions to improve controls over the use of RCT.

TIGTA conducted this follow-up review to determine if proposed corrective actions were implemented and if they significantly reduced the potential for employees to accumulate excessive RCT balances. This inspection was performed during the period of August 2010 through January 2011, in the IRS Human Capital Office (responsible for IRS-wide employee pay and benefits policies); AWSS at the IRS National Headquarters in Washington, D.C.; and in the AWSS office in Memphis, Tennessee. We also interviewed selected managers in 19 IRS offices (refer to Appendix IV for a detailed listing).

This review was performed in accordance with the Council of the Inspectors General for Integrity and Efficiency Quality Standards for Inspections. Detailed information on our 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

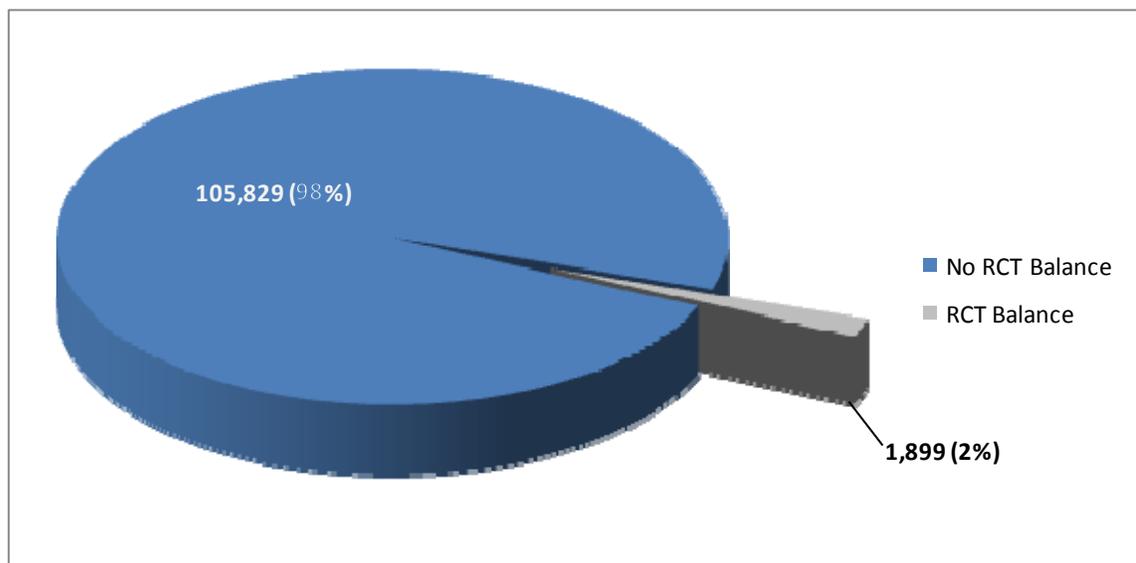
Fewer Employees Have Excessive Religious Compensatory Time Balances but the Risk for Abuse is Still Present

Our previous review of RCT use within the IRS revealed internal control weaknesses that allowed some employees to accumulate excessive RCT balances (the absolute value⁴ of the balance is equal to or greater than 80 hours). Between February 2008 and June 2010, the number of IRS employees with RCT balances and employees with excessive balances significantly decreased. However, a detailed analysis of the population of employees with excessive balances indicates a continuing risk that employees could misuse RCT.

The number of employees with excessive RCT balances declined

As of June 2010, approximately 2 percent of the IRS workforce (1,899 of 107,728 employees) had RCT balances. The figure below illustrates the portion of IRS employees with RCT balances.

Figure 1: IRS Employees with RCT Balances



Source: TIGTA analysis of time and attendance records, as of June 2010.

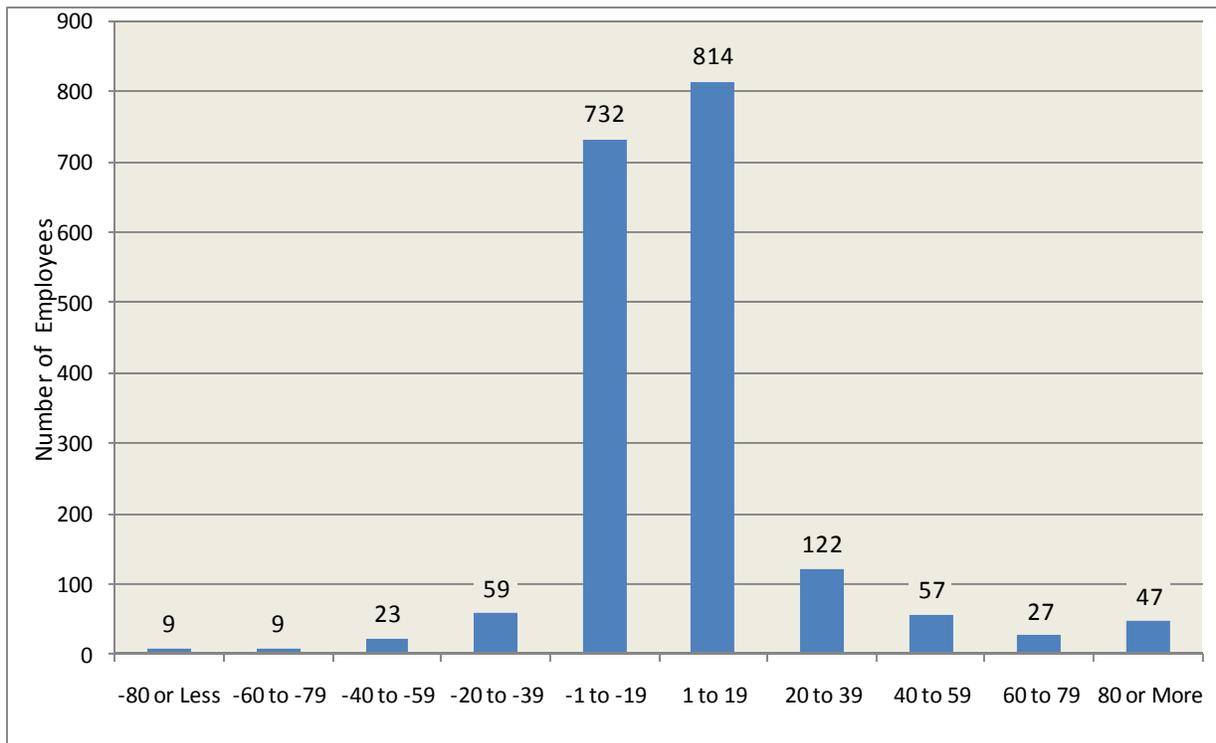
⁴ The numerical value of a number without regard to its sign (positive or negative.)



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Having an RCT balance, in and of itself, does not create a problem. However, we believe employees with higher RCT balances are more likely to use RCT for non-religious purposes. Potential misuse includes earning RCT and not routinely using it with the intention of receiving a lump sum payment for the balance upon separation or retirement; using RCT instead of annual or sick leave; or allowing employees to earn RCT in lieu of overtime, compensatory time, or credit hours. Eighty-one percent of IRS employees with RCT (1,546 of 1,899) had balances between negative 20 and positive 20 hours, while only about three percent (56 of 1,899 employees) had excessive balances. Thus, we believe that the level of RCT misuse is relatively low within the IRS. Figure 2 documents the distribution of RCT balances.

Figure 2: Distribution of RCT Balances



Source: TIGTA analysis of time and attendance records, as of June 2010.

Between February 2008 and June 2010, the number of employees with RCT balances decreased from 2,764 to 1,899, and the number of employees with excessive balances decreased from 86 to 56. When compared to the overall workforce for February 2008 and June 2010, the number of employees with RCT balances declined by approximately 33 percent, and the number of employees with excessive RCT balances decreased by nearly 37 percent. Figure 3 illustrates the decline in employees with RCT balances and excessive RCT balances between the two time periods.



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Figure 3: Decrease in Employees with RCT Balances

	February 2008	June 2010	Decrease Relative to Total Population
Total Population	104,864	107,728	
Employees with RCT Balances	2,764	1,899	
Percent of Total Population	2.64 %	1.76 %	33.1 %
Employees with Excessive RCT Balances	86	56	
Percent of Total Population	0.08 %	0.05 %	36.6 %

Source: TIGTA analysis of time and attendance records, as of February 2008 and June 2010.

Employees with excessive RCT balances declined but the risk of misuse could be the same

Although the number of employees with excessive RCT balances decreased from 86 to 56 employees between February 2008 and June 2010, a detailed analysis of how the numbers decreased reveals that the risk for potential RCT misuse may not have changed. Figure 4 documents how the population of employees with excessive balances changed during the time period.

Figure 4: Change in the Number of Employees with Excessive RCT Balances between February 2008 and June 2010

Employees with excessive balances as of February 2008	86
Less employees who no longer had excessive balances as of June 2010:	
Employees who reduced RCT balances below 80 hours	35
Employees who separated with RCT balances	17 (52)
Subtotal	34
Add employees who accumulated excessive balances by June 2010:	22
Employees with excessive balances as of June 2010	56

Source: TIGTA analysis of time and attendance records from February 2008 through June 2010.



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Of the 86 employees who had excessive balances as of February 2008, 35 (approximately 41 percent) reduced their RCT balances below 80 hours by June 2010. Two employees either used their RCT or repaid advanced RCT before separating from the IRS, and 33 employees reduced their RCT balances below 80 hours. However, about 31 percent of these employees (11 of 35) still had RCT balances above 50 hours as of June 2010. These employees could easily accumulate excessive balances if managers do not monitor how these employees earn and use RCT.

We found that 17 of 86 employees (nearly 20 percent) separated from the IRS with outstanding RCT balances that ranged from negative 120 hours to positive 243 hours – 16 employees had positive RCT balances and one employee had an advanced RCT balance. The IRS must pay a lump sum amount to an employee who separates from the IRS with a positive RCT balance. This amount is calculated at the rate of basic pay at the time the work was performed. If an employee separates from the IRS with an advanced RCT balance, the IRS should subtract the amount owed for that RCT balance from the final payments owed to the separating employee. However, the IRS can forgive debt up to \$15,000 for separating employees. Of the 17 employees who separated, the IRS paid 16 employees an estimated \$70,256 for unused positive RCT balances, and forgave an estimated \$3,166 debt owed by one employee who had an advanced RCT balance. We discuss the overall financial effect of all employees who separate from the IRS with RCT balances in more detail below.

Additionally, 34 of 86 employees (about 40 percent) with excessive RCT balances as of February 2008 still had excessive balances in June 2010. During this time period, five employees increased their RCT balances, 13 employees did not use or pay back any RCT, and 16 employees reduced their RCT balances. However, these balances remained at or above 80 hours.

Finally, 22 employees accumulated at least 80 hours of RCT between February 2008 and June 2010 and joined the ranks of employees with excessive balances. Two employees had advanced balances that ranged from negative 120.5 hours to negative 82 hours, and 20 employees had positive balances that ranged from 80 to 154 hours.

Employees in AWSS noted that the IRS is taking steps to reduce the number of employees with excessive RCT balances. However, the IRS's ability to do this is hampered by a settlement agreement related to a grievance filed by the National Treasury Employees Union (NTEU)⁵ in 2008. According to the agreement, IRS managers do not have the authority to require employees to use RCT balances by a specific date. In other words, once an employee earns RCT, the employee can maintain that balance until he or she separates from the IRS. This agreement magnifies the need for stronger internal controls designed to ensure managers only approve RCT for planned religious observances.

⁵ NTEU is the union that represents IRS bargaining unit employees.



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Potential and Actual Misuse of Religious Compensatory Time Support the Case for Additional Controls

Based on the result of our previous review, we made five recommendations to improve controls over the use of RCT and reduce the potential for widespread abuse of RCT. In response to our recommendations, the IRS agreed to implement five corrective actions to improve controls over RCT. The planned corrective actions and the status of those actions are listed below.

Figure 5: Status of Corrective Actions Related to Previous Recommendations

Planned Corrective Action	Status of Corrective Action
1. The IRS will prepare a semiannual listing of employees with RCT balances that are excessive or have not decreased within that six-month review period. The listing will be provided to the senior executive of each operating division and business unit.	Complete
2. The IRS will revise its policies to emphasize that additional RCT may not be approved if existing RCT balances have not been used, repaid, or scheduled for use or repayment.	Complete
3. The IRS will modify the Internal Revenue Manual (IRM) to require that advanced RCT balances must be repaid before approving employees' voluntary requests to earn overtime, compensatory time, or credit hours.	Complete , but corrective actions do not apply to all IRS employees.
4. The IRS will revise the IRM to require employees to submit written requests for RCT with the pertinent information. The request should include: the dates and number of hours requested; a brief explanation of the personal belief that requires the employee to abstain from work at the time requested; and the dates and times the employee will repay the hours used.	Complete , but corrective actions do not apply to all IRS employees.
5. The IRS will revise its policies related to the use of RCT, leave, and hours of duty. The IRS will also develop a multi-pronged approach expected to include developing web-based guidance and training to ensure managers, employees and timekeepers understand the revised policies.	Incomplete

Source: Summary based on reviews of the IRS's IRM and the National Agreement for 2009, and interviews with IRS employees.

The IRS completed correction actions #1 and #2. As planned, the IRS revised the IRM to address corrective actions #3 and #4; however, these corrective actions do not apply to IRS bargaining-unit employees represented by NTEU (approximately 80 percent of the IRS workforce). The IRS has not completed and implemented corrective action #5. As documented below, our analysis and interviews with IRS managers reveal several indicators of potential RCT



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misuse, and in some cases, actual misuse. Thus, we believe that the IRS should take additional actions to improve its internal controls.

Semiannual reports of employees with excessive RCT balances have mixed success

In response to our prior report, the IRS Human Capital Officer implemented a semiannual reporting process which identifies those employees with RCT balances that are either excessive or have not decreased within the six-month period. These semiannual reports are provided to the senior executives of each operating division and business unit within the IRS to retain oversight and ensure adequate controls are in place to address excessive RCT balances. We interviewed managers to confirm whether these communications were being filtered down to their level for action, as deemed appropriate, and eight managers confirmed that they had received some form of contact from senior leaders concerning their employees' RCT balances. These managers indicated they at least discussed the RCT balances with the employees, and in some cases the managers and employees developed plans to use or pay back the RCT.

Analysis of IRS time and attendance records and several semiannual reports showed that while these reports are distributed throughout the respective operating divisions and business units, they appear to have very little impact on excessive and overdue advanced RCT balances. However, the overall impact cannot be fairly assessed when one takes into consideration that the semiannual reporting process is relatively new and, as previously stated, in the case of employees with excessive positive RCT balances, managers cannot force the employees to use RCT once earned. We believe that as this reporting process matures, the end result will be a decline in overall excessive balances and a reduced potential for abuse and mismanagement of RCT.

Some employees continue to separate from the IRS with large RCT balances

As stated above, the IRS must pay an employee who separates from the IRS with a positive RCT balance at the rate of basic pay at the time the work was performed. AWSS employees can use electronic payroll records to readily determine the rate of basic pay as long as the RCT was earned within the most recent six-year period. However, if the RCT was earned over six years ago, AWSS employees must use a labor-intensive and time-consuming process to determine the rate of basic pay. In cases where an employee separates from the IRS with RCT earned over six years ago, AWSS employees believe this process is not always cost effective. Instead, AWSS employees would more than likely calculate the amounts owed to the employee based on the oldest rate of basic pay in the system, which could cause the IRS to overpay the employee. Between January 2008 and October 2010, the IRS owed approximately \$204,426 to 165 employees who separated with positive RCT balances. The figure below documents amounts paid to employees who separated with outstanding positive RCT balances between January 2008 and October 2010.



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**Figure 6: Amounts Paid to Employees who Separated from the IRS
with Positive RCT Balances**

Balances (Hours)	80 or More	60 to 79	40 to 59	20 to 39	1 to 19	Totals
Total Employees	13	8	17	20	107	165
Total Hours	1,316.50	546.00	797.00	601.50	533.00	3,794.00
Avg. Hours	101.27	68.25	46.88	30.08	4.98	22.99
Est. Gross Amount	\$73,801.58	\$27,894.29	\$44,725.58	\$32,146.54	\$25,857.87	\$204,425.86
Est. Avg. Payout	\$5,677.04	\$3,486.79	\$2,630.92	\$1,607.33	\$241.66	\$1,238.94

Source: TIGTA analysis of IRS payroll records, as of October 2010.

As previously stated, if an employee separates from the IRS with an advanced RCT balance, the IRS should subtract the amount owed for the advanced RCT balance from the final payments owed to the separating employee. Between January 2008 and October 2010, 119 employees owed the IRS approximately \$42,731, because they separated from the IRS with advanced RCT balances. The figure below documents amounts owed by employees who separated with advanced RCT balances between January 2008 and October 2010.

**Figure 7: Amounts Owed by Employees who Separated from the IRS with
Advanced or Negative RCT Balances⁶**

Balances (Hours)	-80 or Less	-79 to -60	-59 to -40	-39 to -20	-19 to -1	Totals
Employees	1	0	5	13	100	119
Total Hours	(120.00)	0.00	(227.25)	(343.25)	(665.75)	(1356.25)
Avg. Hours	(120.00)	0.00	(45.45)	(26.40)	(6.66)	(11.40)
Est. Gross Owed	\$3,166.34	\$0.00	\$7,368.58	\$10,416.82	\$21,779.37	\$42,731.11
Est. Avg. Debt	\$3,166.34	\$0.00	\$1,473.72	\$801.29	\$217.79	\$359.08

Source: TIGTA analysis of IRS payroll records, as of October 2010.

Compared to the IRS's total annual budget of \$12.58 billion, the amounts paid to or owed by employees are minimal. However, additional management oversight, as discussed below, could reduce the potential for more abuse in this area.

⁶ Preliminary data received from the IRS indicate the IRS forgave the debts of 16 former IRS employees with an aggregate of 329.25 hours of RCT. The forgiven debt, estimated at \$9,530.84, is included in the \$42,731.11 debt identified above.



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Some employees were paid for overtime, compensatory or credit hours although they had advanced or negative RCT balances

During our previous review, we noted that managers allowed several employees to receive paid overtime, regular compensatory time, and credit hours while still owing significant RCT balances. Employees generally receive 1.5 times their basic hourly pay rate for each overtime hour worked, while they may earn regular compensatory time in lieu of paid overtime on an hour-for-hour basis. Credit hours allow employees under flexible work schedules to be absent for an equal number of hours worked. Had the extra hours worked been applied to advanced RCT balances, these employees could have paid off or significantly reduced their balances.

Based on a previous TIGTA recommendation, the IRS revised its IRM to specify that advanced RCT balances should be repaid before approving employees' voluntary requests to earn overtime, compensatory time, or credit hours. However, the IRS and NTEU did not agree on this requirement and it was not included in the *Internal Revenue Service and National Treasury Employees Union 2009 National Agreement II* (hereafter referred to as the 2009 National Agreement).⁷ As a result, this requirement does not apply to bargaining unit employees.

The IRS identified 40 employees who either had advanced RCT balances outstanding for at least 120 days, or had advanced RCT balances of 80 hours or more. Analysis of the employees' time and attendance records from January 2008 to July 2010 revealed that 35 of 40 employees (nearly 88 percent) earned overtime, compensatory time, or credit hours despite having advanced RCT balances. Had IRS managers applied the overtime, compensatory time or credit hours to the advanced RCT balances, 21 of 35 employees could have reduced their RCT balances to zero; nine employees could have reduced their RCT balances by 50 to 96 percent; and the remaining five employees could have reduced their RCT balances by four to 45 percent. Examples of the more egregious cases are listed below.

- *****Code Number 3d

- *****Code Number 3d*****
- *****Code Number 3d*****
- *****Code Number 3d*****

Recommendation

Recommendation 1: The IRS Human Capital Officer should modify the IRS RCT procedures to require that all employees (bargaining unit and non-bargaining unit) repay

⁷ The IRS and NTEU Agreement was implemented in October 2009. Section 6.550.1 *Pay Administration* of the IRM was updated on December 16, 2009.



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advanced RCT before a manager can approve employees' voluntary requests to earn overtime, compensatory time, or credit hours.

Management's Response: IRS management agreed with this recommendation; however, implementing this requirement for bargaining unit employees would require renegotiating the provisions of the 2009 National Agreement related to use of RCT. Management believes proposing changes related to the use of RCT is not one of the major provisions that should be renegotiated during reopener negotiations.⁸ Therefore, the IRS agreed to assess the status of RCT issues and consider proposing changes related to RCT in the next agreement.⁹ IRS plans to implement this recommendation by October 1, 2014.

Office of Inspections and Evaluations Comment: We agree with the IRS's proposed corrective actions. However, as illustrated in this report, current methods of enforcing timely repayment of advanced RCT are largely at the discretion of front-line supervisors and managers. Until provisions of the 2009 National Agreement related to RCT are changed, there is nothing to prevent bargaining unit employees (approximately 80 percent of the IRS workforce) with advance RCT from earning overtime, compensatory time, or credit hours.

Requests to earn or use RCT were not documented

According to guidance issued by the Office of Personnel Management, agencies should require employees to submit written requests for RCT in advance. In our previous report, we recommended the IRS modify its RCT procedures to require that all requests for RCT be submitted in writing before any RCT is earned or advanced. We also recommended that these requests contain pertinent information, such as, dates and hours requested, specific information on the religious observance that requires the employee abstain from work, and the dates and times the employee would either work to pay back or earn the time requested. The IRS revised its IRM to comply with our recommendation, but the revised policy does not apply to bargaining unit employees.

We interviewed 41 IRS managers who supervised employees with excessive RCT balances to determine whether they had a process in place to document and manage requests to earn and use RCT.¹⁰ In our opinion, only 16 of 41 managers (39 percent) had an acceptable process to document and track the use of RCT. These managers used hard copy or electronic calendars to

⁸ During reopener negotiations in October 2011, the IRS and NTEU can submit proposals to introduce two new articles and amend five existing articles.

⁹ During negotiations related to the new agreement, which should start in October 2013, the IRS and NTEU can propose changes to any article in the present agreement.

¹⁰ For the purpose of this review, we defined a manager's process as any means of physically documenting the request for, planning of, and/or tracking of RCT to be earned or borrowed, regardless of the quality of the documentation.



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track time earned or worked, and the *Request for Leave or Approved Absence forms* (Office of Personnel Management Form 71), or the obsolete IRS form *Request for Compensatory Time for Religious Observances* (Form MAR-1903 (8-79)).

Another eight managers had a process in place to document RCT requests; however, the process did not provide sufficient documentation to determine the purpose of the RCT, and the dates the employee planned to earn or use the RCT. These processes primarily consisted of verbal conversations followed up by routing slips (Form 1725) to formally request RCT, email messages from the employee to the manager, or follow-up documentation after the employee chose to work or take the RCT without the manager's preapproval.

Office of Personnel Management guidance provides that, "An employees [*sic*] request for [RCT] time off should not be granted without simultaneously scheduling the hours during which the employee will work to make up the time."¹¹ Of the 41 managers interviewed, 29 managed employees with either excessive advanced balances or advanced balances outstanding for over six months.

- Twelve managers (41 percent) confirmed that they did not have plans in place for the employee to pay back the RCT advanced.
- Twenty-two managers (76 percent) stated the employees accumulated advanced RCT balances while working for another IRS manager or office. Twelve of these managers affirmed that the historical documentation of the employee's requests, accrual, or use of RCT was unavailable.

Recommendation

Recommendation 2: The IRS Human Capital Officer should modify the IRS RCT procedures to require that all employees (bargaining unit and non-bargaining unit) submit written requests to earn or use RCT, and develop a standard form for requesting, authorizing, and documenting the use of RCT.

Management's Response: IRS management agreed with this recommendation; however, implementing it as a requirement for bargaining unit employees would require renegotiating the provisions of the 2009 National Agreement related to use of RCT. Management believes proposing changes related to the use of RCT is not one of the major provisions that should be renegotiated during reopener negotiations. Therefore, the IRS agreed to assess the status of RCT issues and consider proposing changes related to RCT in the next agreement. The IRS plans to implement this recommendation by October 1, 2014.

¹¹ Office of Personnel Management, *Adjustment of Work Schedules for Religious Observances*, <http://www.opm.gov/oca/worksch/html/reli.htm> (last visited June 10, 2011).



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Office of Inspections and Evaluations Comment: We agree with the IRS's proposed corrective actions. However, until provisions of the 2009 National Agreement related to RCT are changed, the risk of abuse and mismanagement of RCT may continue.

Some managers misused RCT to compensate employees for extra hours worked

The Office of Personnel Management guidelines, the IRM, and the 2009 National Agreement all provide that employees should only be allowed to accumulate the number of RCT hours needed for anticipated absences required for religious observances. The IRM provides that, "RCT can only be accrued and taken for its proper purpose... it cannot be accumulated in excess of what is required for use nor can it be used to supplement annual leave or circumvent the payment of overtime."¹²

We interviewed 13 managers because they each had at least one employee with RCT balances that either exceeded 80 hours, or increased significantly even though the employee already had a large balance. Seven of 13 managers stated they allowed employees to earn RCT in order to compensate employees for working extra hours to complete assigned tasks. According to these managers, they did not have the authority to approve overtime or regular compensatory time for the extra hours worked, but they did have the authority to approve RCT. While the managers acknowledged they allowed employees to earn RCT to meet workload demands instead of anticipated religious observances, these managers declared the employees only used the RCT for religious purposes. The managers also noted that it was difficult to draft plans documenting how the employee would earn and use RCT. Thus, the managers would allow the employees to work the extra hours because "the work was available," and then allow employees to take the time off for religious observances as needed.

Conversely, two managers of several employees admitted they intentionally allowed their employees to earn RCT in lieu of overtime or regular compensatory time worked, and also allowed employees to take the time off for purposes other than religious observances. These managers stated they were well aware of the policies and guidelines for RCT, however, chose to circumvent those regulations to meet workload demands. Their abuse of the RCT benefit is so blatant that analysis of time and attendance records revealed that between January 2008 and December 2010, four employees earned an average of 192 hours of RCT per calendar year. The hours of RCT earned and used by these employees in that period are documented below:

- *****Code Number 3d*****

- *****Code Number 3d*****

¹² IRM 6.550.1.7.1(December 10, 2009).



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- *****Code Number 3d*****
- *****Code Number 3d*****

Managers need more training related to the use of RCT

Per the U.S. Government Accountability Office's *Standards for Internal Control in the Federal Government*, "All personnel need to possess and maintain a level of competence that allows them to accomplish their assigned duties.... Management needs to identify appropriate knowledge and skills needed for various jobs and provide needed training."¹³ Of the 41 managers interviewed, 34 managers (83 percent) stated they (1) never received any training related to the appropriate use and management of RCT, or (2) could not recall any training on the subject of RCT. Only 16 managers (39 percent) stated they were familiar with recent RCT updates to the IRM and/or the 2009 National Agreement.

Accompanying this lack of training and familiarity with current RCT guidelines are a correlation of identified risks. For example, six of the 41 managers (15 percent) interviewed declared their employees' RCT balances were the result of timekeeping errors. They alleged that the employees either (1) never requested to borrow or earn RCT, or (2) while the employee was working additional hours to pay back RCT borrowed, the timekeeper mistakenly entered the wrong time code into the IRS timekeeping system - the Single Entry Time Reports System.

Another risk associated with the lack of training is the potential for abuse of RCT by IRS employees. Of the 41 managers interviewed, 23 (56 percent) confirmed that they had never denied a request for RCT. Managers repeatedly told us they approved questionable requests because (1) they did not fully understand what events were legitimate religious observances, or (2) they feared potential grievances from mishandling or denying a request for RCT. Most of the managers commented they would approve a request for RCT regardless of whether the event appeared to be a religious observance that would require the employee abstain from work in order to avoid potential grievances and the appearance of any prejudice against an employee's faith.

In our previous report, we recommended that all IRS managers and employees receive training on the IRS time and attendance policies related to all types of leave to increase awareness of possible abuse and ensure proper administration of not only RCT, but all other types of leave and hours of duty. The IRS completed a training module specifically related to RCT that provides detailed guidance on how RCT is to be earned and used. The IRS plans to release the RCT training module in conjunction with eight other training modules related to administrative policies in 2011. However, the training will only be mandatory for new front-line managers; it

¹³ GAO/AIMD-00-21.3.1 (11/99), 8.



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will not be mandatory for all managers and employees. Staff in the Human Capital Office noted that other training related to RCT is available to all IRS employees, although it is not mandatory. Given the control weaknesses we identified and confusion related to reviewing and approving RCT, the IRS should reconsider whether the training should be mandatory for all managers and timekeepers. At a minimum, the confusion about the controls over RCT and managers' responsibilities related to RCT should be addressed.

Recommendation

Recommendation 3: The IRS Human Capital Officer should require that all managers and timekeepers receive mandatory training on the revised procedures and responsibilities associated with RCT.

Management's Response: IRS management partially agreed with this recommendation. Management plans to consider inserting a training module related to RCT in the annual management briefings cycle; however, they believe mandatory training for timekeepers would not be cost-effective.¹⁴ The IRS has developed online training related to RCT and plans to use web communications, such as Leaders' Alerts and Single Entry Time Reports System newsletters, to encourage timekeepers and managers to complete RCT training. The IRS plans to implement this recommendation by October 15, 2012.

Office of Inspections and Evaluations Comment: We agree with the IRS's proposed corrective action specifically related to managers. In terms of training for timekeepers, the use of web communications to encourage timekeepers to complete online training is an acceptable alternative to mandatory training.

¹⁴ The term "annual management briefing cycle" was not included in the IRS's written response to TIGTA's draft report. IRS management communicated this information to TIGTA in a separate discussion.



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Appendix I

Detailed Objective, Scope, and Methodology

Our overall objective was to determine whether the corrective actions implemented by the IRS significantly reduced the potential for IRS employees to accumulate excessive RCT balances. To accomplish our objective, we:

- I. Determined whether the IRS has significantly reduced the number of employees with excessive RCT balances.
 - A. Determined how many employees had an RCT balance of 80 or more hours, either negative (advanced) or positive.
 - B. Determined the financial impact of employees separated from the IRS with a positive or negative (advanced) balance between January 2008 and October 2010.
- II. Determined when, or whether, the IRS implemented corrective actions related to previous recommendations based on interviews with employees in the Human Capital Office and AWSS.
- III. Determined whether the employees' managers followed established procedures related to RCT for the employees with the highest RCT balances.



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Appendix II

Major Contributors to This Report

Kevin P. Riley, Director
James A. Douglas, Supervisory Evaluator
John L. da Cruz, Program Analyst
Kyle M. Huggins, Student Trainee



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Appendix III

Report Distribution List

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Audit Liaisons:
 Chief, Agency-Wide Shared Services OS:A
 IRS Human Capital Officer OS:HC



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Appendix IV

Locations of Interviews of Selected IRS Managers

We interviewed 41 IRS managers who had employees with excessive RCT balances to determine whether managers understood and followed established policies and procedures. The list below identifies the locations of the managers interviewed.

Atlanta, Georgia
Baltimore, Maryland
Bronx, New York
Brooklyn, New York
Chamblee, Georgia
Dallas, Texas
Detroit, Michigan
Downers Grove, Illinois
El Monte, California
Garden City, New York
Holtsville, New York
Jacksonville, Florida
New York, New York
Newark, New Jersey
Philadelphia, Pennsylvania
Schiller Park, Illinois
St. Paul, Minnesota
Tampa, Florida
Washington, D.C.



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Appendix V

Management's Response to the Draft Report

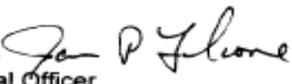


HUMAN CAPITAL OFFICE

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

April 8, 2011

MEMORANDUM FOR R. DAVID HOLMGREN
DEPUTY INSPECTOR GENERAL FOR INSPECTIONS AND
EVALUATIONS

FROM: James P. Falcone 
IRS Human Capital Officer

SUBJECT: Draft Inspection Report – Follow-up Review of Controls Over
Religious Compensatory Time (# IE-10-016)

We reviewed the subject draft report and appreciate your recognition of the steps we have taken to strengthen religious compensatory time requirements and controls.

In addition to revising religious compensatory time policy and renegotiating most corresponding provisions in the 2009 National Agreement II, we have issued manager and employee web guidance, conducted mandatory managerial training on key contract changes, and are actively monitoring religious compensatory time usage. These efforts have resulted in a significant decrease in the number of IRS employees with religious compensatory time balances since 2008, including a notable downtrend in the total number of employees with excessive balances.

We agree with your findings that only about two percent of IRS employees have religious compensatory time balances, with an even smaller percentage having balances that are considered to be excessive. Based on an analysis of this data, we do not believe that we have a systemic problem that warrants a broad-brush approach. A more effective solution is to aggressively target corrective action directed at individual cases. Such increased oversight should reduce the potential for abuse of religious compensatory time.

We will implement your recommendations with modifications. As you acknowledge for Recommendations 1 and 2, we substantially completed the planned corrective actions that were identified previously, with the exception of implementation for bargaining unit employees. However, we did successfully negotiate several other new provisions in the 2009 National Agreement II that more specifically define requirements and improve controls over religious compensatory time use. Of particular note is a provision that prohibits accumulating balances in excess of 80 hours, which is also stated in IRS policy. We are unable to negotiate any new religious compensatory time provisions until the Agreement is opened in accordance with established bargaining requirements.



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As we prepare for negotiations for the successor Agreement, we will assess the status of religious compensatory time issues and consider proposing additional changes to religious compensatory time provisions.

To address Recommendation 3, we will consider including a module on revised religious compensatory time requirements with an emphasis on management's oversight role, for inclusion in next year's management briefings. We do not believe that having similar training for timekeepers is cost-effective. Instead, we will use other means to ensure that timekeepers are familiar with RCT procedures.

The corrective actions implemented by the IRS since the February 2009 inspection report and the subsequent actions we are taking, will significantly reduce the potential for IRS employees to accumulate excessive religious compensatory time balances. Such actions include:

- Quarterly listing of employees with religious compensatory time balances to all operating divisions/functions and semiannual reports on excessive balances to the Senior Executive Team. The IRS Human Capital Officer will ensure that Operating Division/Functional Office Heads hold subordinate managers accountable for taking necessary action to deal with excessive balances, including disallowing additional earning of religious compensatory time.
- The Human Capital Advisory Council was recently notified that managers of identified employees with overage advanced religious compensatory time balances must convert the outstanding time to annual leave or leave without pay (LWOP) per the 2009 National Agreement II and IRM policy. The IRS Human Capital Office will monitor compliance with this repayment requirement.
- As part of the annual assurance review process required under the Federal Managers' Financial Integrity Act (FMFIA), the IRS FY 2011 Self-Assessment Tool for Managers includes verifying that procedures are established for proper authorization, pre-validation, and documentation of religious compensatory time.
- Periodic web communications to managers regarding religious compensatory time requirements, including roll-out of the religious compensatory time module that was developed as part of the existing timekeeper and management training curricula.

Attached is a detailed response outlining the corrective actions that the Human Capital Office will take to address your recommendations. If you have any questions, please contact Jim Falcone, IRS Human Capital Officer, at (202) 622-7676 or Rich Cronin, Director, Workforce Progression and Management Division, at (202) 622-4350.

Attachment



*Follow-up Review of Controls Over
Religious Compensatory Time*

Attachment

**Draft Inspection Report – Follow-up Review of Controls Over Religious
Compensatory Time (#E-10-016)**

RECOMMENDATION 1: The IRS Human Capital Officer should modify the IRS religious compensatory time procedures to require that all employees (union and non-union) repay advanced religious compensatory time before a manager can approve employees' voluntary requests to earn overtime, compensatory time, or credit hours.

CORRECTIVE ACTION: We revised IRS policy and stated this requirement in IRM 6.550.1, but it was not implemented for bargaining unit employees. We cannot extend this requirement to all employees as this would constitute a contractual violation. Furthermore, this is not one of the major provisions that IRS needs to address during reopener negotiations. We are unable to negotiate any new religious compensatory time provisions until the Agreement is opened in accordance with established bargaining requirements. As we prepare for negotiations for the successor Agreement, we will assess the status of religious compensatory time issues and consider proposing additional changes to religious compensatory time provisions.

We believe our current review and required corrective actions enforcing the timely repayment of advanced religious compensatory time should accomplish the intent of this recommendation. The anticipated outcome is elimination or a considerable reduction in advanced religious compensatory time balances. The 2009 National Agreement II, Article 23, Section 5, Religious Observances contains provisions that significantly tighten religious compensatory time requirements, including the requirement that advanced religious compensatory time must generally be repaid within 120 days or converted to annual leave or leave without pay.

We would like to point out that the example on page 11, paragraph 3 of your report that pertains to this recommendation should state, "Had IRS *managers* applied the overtime, compensatory time, or credit hours to the advanced religious compensatory time balances....", instead of the reference to IRS *timekeepers*. This correction clarifies that managers, not timekeepers, are responsible for approving time and attendance charges.

IMPLEMENTATION DATE: Completed December 16, 2009 (for nonbargaining unit employees); October 1, 2014 (for bargaining unit employees)

RESPONSIBLE OFFICIALS: Director, Workforce Progression and Management Division, Human Capital Office; Director, Workforce Relations Division, Human Capital Office



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Attachment

**Draft Inspection Report – Follow-up Review of Controls Over Religious
Compensatory Time (#IE-10-016)**

RECOMMENDATION 2: The IRS Human Capital Officer should modify the IRS religious compensatory time procedures to require that all employees (union and non-union) submit written requests to earn or use religious compensatory time, and develop a standard form for requesting, authorizing, and documenting the use of religious compensatory time.

CORRECTIVE ACTION: The revised IRM 6.550.1 states that an employee should submit a written request to take compensatory time off for a specific religious observance. The IRM also states that the manager and employee must establish a plan that documents when the religious compensatory time will be worked, showing the dates and times the employee is requesting to be absent for the religious observance and the dates and times the employee will work to repay the religious compensatory time used.

The 2009 National Agreement II, Article 23, Section 5 similarly addresses that a repayment plan will be established, however does not specifically state that it be in writing. We cannot extend the requirement to all employees that they submit a written request or a form as this would constitute a contractual violation. We are unable to negotiate any new religious compensatory time provisions until the Agreement is opened in accordance with established bargaining requirements. As we prepare for negotiations for the successor Agreement, we will assess the status of religious compensatory time issues and consider proposing additional changes to religious compensatory time provisions.

IMPLEMENTATION DATE: October 1, 2014

RESPONSIBLE OFFICIALS: Director, Workforce Progression and Management Division, Human Capital Office; Director, Workforce Relations Division, Human Capital Office

RECOMMENDATION 3: The IRS Human Capital Officer should require that all managers and timekeepers receive mandatory training on the revised procedures and responsibilities associated with religious compensatory time.

CORRECTIVE ACTION: The 2009 National Agreement II new contract training required for all managers included religious compensatory time contract changes. We will also consider inserting a training module in next year's management briefings that addresses religious compensatory time requirements and managerial oversight of religious compensatory use and approval. As part of the Time and Attendance on-line training curricula for managers and timekeepers, we have developed a religious compensatory time module that will be rolled out soon. We will encourage this training through Leaders' Alerts and SETR newsletters for new and experienced managers and timekeepers.



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**Draft Inspection Report – Follow-up Review of Controls Over Religious
Compensatory Time (#IE-10-016)**

In addition, we will continue to inform managers by issuing periodic web communications, e.g., Leaders' Alerts, of their responsibility for oversight and control of the use of religious compensatory time and adherence to requirements.

IMPLEMENTATION DATE: October 15, 2012

RESPONSIBLE OFFICIALS: Director, Workforce Progression and Management
Division, Human Capital Office