



## Treasury Inspector General for Tax Administration

### THE PUBLISHED GUIDANCE PROGRAM NEEDS ADDITIONAL CONTROLS TO MINIMIZE RISKS AND INCREASE PUBLIC AWARENESS

Issued on March 4, 2008

## Highlights

Highlights of Report Number: 2008-10-075 to the Internal Revenue Service Chief Counsel.

### IMPACT ON TAXPAYERS

The Office of Chief Counsel (Counsel) is responsible for interpreting the tax laws through its published guidance program, which is closely coordinated with the Department of the Treasury Office of Tax Policy (OTP). Although Counsel has increased the level of attention it places on the published guidance program, additional controls would further strengthen the process. These changes would minimize risks and increase public awareness of Counsel's efforts to develop and issue guidance. A strong published guidance program will help taxpayers understand and meet their tax responsibilities and help the Internal Revenue Service (IRS) apply the tax laws correctly and uniformly.

### WHY TIGTA DID THE AUDIT

This audit was initiated at the request of the Senate Finance Committee to evaluate Counsel's process and related controls for developing tax guidance, including the pilot guidance program described in Notice 2007-17. In coordination with the OTP, Counsel launched a pilot program to request and evaluate public submissions before considering changes to existing regulations. Several news articles questioned whether the pilot program was putting special interests before the public's interest when developing published tax guidance.

### WHAT TIGTA FOUND

Counsel has intensified its focus to develop more tax guidance, including starting a new pilot program to determine if guidance could be issued using fewer resources. Counsel's internal controls should ensure guidance projects are focused on interpreting tax laws and addressing internal and external customer needs. However, additional internal controls are needed to further strengthen the process, minimize risks, and increase public awareness.

Although Counsel considers ideas from a wide variety of sources when selecting projects for the annual business plan, it can improve its written procedures to ensure that

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the most important issues are selected. Also, Counsel does not track all open projects on its guidance business plan. As a result, these projects have an increased risk of untimely actions, less management oversight, and less public awareness.

Counsel's computer information system is not a useful tool to monitor projects. Employees are not always entering information, missing computer logic checks allow the input of inconsistent data, and summary reports are not used to manage the projects. As a result, management may not identify delays in the process or gaps in activity. In addition, Counsel could not locate all the paper project files TIGTA requested for this review, and some of the located files were missing information. A paper project file provides a record of actions taken and supports decisions made during the development of the guidance.

TIGTA believes the pilot program explained in Notice 2007-17 does not present an increased risk of influence by special interest groups in the selection of guidance projects. The pilot program did not directly create tax guidance or circumvent existing internal controls. In our opinion, the pilot program resulted in increased public awareness. However, Counsel could have difficulty objectively evaluating the overall success of the pilot program because it does not have an adequate baseline against which to compare the results.

### WHAT TIGTA RECOMMENDED

The Chief Counsel should expand written procedures for developing and monitoring the guidance business plan, issue more frequent updates to and establish a reasonable expectation in the Priority Guidance Plan, publish the annual solicitation notice for guidance suggestions on any Federal Government website readily available to the public, review and revise-if necessary-the written procedures for maintaining paper project files, ensure that the new computer tracking system provides management with complete and accurate information necessary to monitor the guidance program, and develop written organizational procedures for the pilot program described in Notice 2007-17, including a methodology by which to evaluate the results if the process is continued.

In their response to the report, IRS officials agreed with six of the recommendations and plan to take appropriate corrective actions. Counsel partially agreed to the recommendation to issue more frequent updates to the Priority Guidance Plan and responded with an alternate corrective action. TIGTA agrees with the alternate action.

### READ THE FULL REPORT

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

<http://www.treas.gov/tigta/auditreports/2008reports/200810075fr.pdf>.

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