



Treasury Inspector General for Tax Administration

FISCAL YEAR 2008 STATUTORY AUDIT OF COMPLIANCE WITH LEGAL GUIDELINES RESTRICTING THE USE OF RECORDS OF TAX ENFORCEMENT RESULTS

Issued on April 17, 2008

Highlights

Highlights of Report Number: 2008-40-108 to the Internal Revenue Service Deputy Commissioner for Operations Support.

IMPACT ON TAXPAYERS

Internal Revenue Service (IRS) Restructuring and Reform Act of 1998 (RRA 98) Section 1204 requires the IRS to ensure that managers do not evaluate employees using any record of tax enforcement results (ROTTER) or base employee successes on meeting arbitrary production goals and quotas. Based on the overall results of our sample, the IRS' efforts to enforce the employee evaluation requirements under Section 1204 are generally effective and are helping to protect the rights of taxpayers.

WHY TIGTA DID THE AUDIT

This audit was initiated because TIGTA is required under Internal Revenue Code Section 7803(d)(1) (2000) to annually evaluate whether the IRS is in compliance with restrictions on the use of enforcement statistics under RRA 98 Section 1204.

- Section 1204(a) prohibits the IRS from using any ROTER to evaluate employees or to impose or suggest production quotas or goals.
- Section 1204(b) requires that employees be evaluated using the fair and equitable treatment of taxpayers as a performance standard.
- Section 1204(c) requires each appropriate supervisor to self-certify quarterly whether tax enforcement results were used in a prohibited manner.

WHAT TIGTA FOUND

TIGTA found potential violations of Section 1204(a) in 7 (1 percent) of the 660 performance evaluation documents sampled. Four managers did not document that they had evaluated employees on the retention standard that requires the fair and equitable treatment of taxpayers, and 29 (45 percent) of the 65 employees and

managers TIGTA asked did not understand the intent of the retention standard. Additionally, five managers of employees could not substantiate compliance with IRS procedures by providing evidence that they had completed the requested RRA 98 Section 1204 Manager's Self-Certification Forms.

WHAT TIGTA RECOMMENDED

TIGTA recommended that the Deputy Commissioner for Operations Support work with the National Treasury Employees Union and the IRS business units and functions to 1) revise Block 9 of the Bargaining Unit Performance Appraisal and Recognition Election (Form 6850-BU) and the Non-Bargaining Unit Performance Appraisal (Form 6850-NBU) to label the retention standard as the "Fair and Equitable Treatment Standard" and 2) define the standard in the instructions attached to the Forms.

In their response to the report, IRS management agreed with our recommendation. The Human Capital Officer plans to work with the National Treasury Employees Union to revise Block 9 of Forms 6850-BU and 6850-NBU to label the retention standard as the "Fair and Equitable Treatment Standard" and to define the standard Section 1204(b) in the instructions attached to each of the forms.

IRS management disagreed that the ROTERs identified in employee self-assessments violate Section 1204(a). However, TIGTA's position in this and the prior audits is that self-assessments containing records of tax enforcement results do violate RRA 98 Section 1204(a). Self-assessments are a fundamental part of the evaluation process for managers and executives, who complete self-assessments and provide them to their managers for consideration when preparing their annual appraisals. In our experience, the self-assessments are usually associated with the annual appraisals. Quite often, self-assessments are attached to and, in effect, become part of the annual appraisals.

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/200840108fr.pdf>

Email Address: inquiries@tigta.treas.gov
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