GAO

United States General Accounting Office

Report to the Chairman, Subcommittee on Commerce, Consumer, and Monetary Affairs, Committee on Government Operations, House of Representatives

April 1988

TAX ADMINISTRATION

Opportunities Exist for Improving IRS' Administration of Alien Taxpayer Programs

RELEASED

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GAO

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The Honorable Doug Barnard, Jr.
Chairman, Subcommittee on Commerce,
Consumer, and Monetary Affairs
Committee on Government Operations
House of Representatives

Dear Mr. Chairman:

In response to your request, this report discusses the need to improve the Internal Revenue Service's (IRS) enforcement of tax requirements pertaining to aliens living and working in the United States. The report proposes ways for IRS to better ensure alien compliance with U.S. tax requirements prior to returning to their home countries.

As arranged with the Subcommittee, unless you publicly announce its contents earlier, we plan no further distribution of this report, other than to IRS, until 30 days from the date of issuance. At that time we will send copies to the Immigration and Naturalization Service, the Department of State, congressional committees having an interest in the matters discussed, and to other interested parties.

Sincerely yours,

Richard L. Fogel

Richard L. Fogel
Assistant Comptroller General

Executive Summary

Purpose

In response to a request from the Subcommittee on Commerce, Consumer, and Monetary Affairs of the House Committee on Government Operations, GAO

- studied whether income tax return nonfiling by foreign individuals (aliens) lawfully living and working in the United States was a problem and
- evaluated Internal Revenue Service (IRS) programs aimed at identifying and collecting any taxes due on income earned by aliens in the United States.

Background

According to Immigration and Naturalization Service (INS) data, about 11.1 million aliens were admitted to the United States in fiscal year 1986. Many aliens earn money in the United States, which could subject them to U.S. tax requirements. U.S. tax requirements affecting an alien differ depending on whether the alien is a resident or nonresident under tax law definitions. Resident aliens are persons who have been given the privilege, according to the immigration laws, of residing permanently in the United States as an immigrant or who have been in the United States for a specified number of days. Nonresident aliens are essentially foreign persons who enter the United States on a temporary basis.

Nonresident aliens are subject to tax on U.S. source income. Most of their business income is taxed at the same graduated rates that apply to U.S. citizens. Their investment income and some of their business income are taxed at a flat rate of 30 percent of gross income, unless the rate is reduced in accordance with the terms of a tax treaty between the alien's country and the United States. Resident aliens are taxed on their worldwide income, not just on their U.S. source income, in the same manner and at the same rates as U.S. citizens. (See pp. 8 and 9.)

Results in Brief

IRS lacks sufficient information to determine whether nonresident aliens working in the United States are properly meeting their U.S. tax responsibilities. IRS recognizes the need for better alien taxpayer information and has initiated a study of alien taxpayer compliance.

IRS has mechanisms in place designed to help ensure an alien's compliance with U.S. tax requirements before leaving the United States. Those mechanisms include a statutory provision that is not being actively enforced and may be impractical to enforce and two programs directed

at nonresident aliens that are not being administered in accordance with procedures.

Principal Findings

Alien Taxpayer Compliance Unknown

IRS does not have information measuring the extent to which resident and nonresident aliens are meeting their tax responsibilities. In an attempt to develop quantitative information on alien compliance with tax return filing requirements, GAO matched data in INS records on a nonrandom sample of 545 aliens with data in IRS' computerized tax records. Because of data sampling constraints the results of GAO's match only apply to its sample and cannot be projected nationwide. (See pp. 14 and 15.)

As a result of that match, GAO identified 410 aliens who had complied with their filing requirements and referred the other 135 to IRS for follow up. That follow up, which included a letter to most of the aliens, produced evidence that 76 of the 135 aliens had no outstanding filing requirement. Although the other 59 aliens (11 percent of GAO's sample) did not answer IRS' letter and although there was no evidence that they had satisfied their filing requirements, IRS decided against further investigation. A primary reason for that decision was the fact that many of the 59 had apparently left the United States thus making further investigation more costly. (See pp. 15 to 18.)

In an effort to gauge alien taxpayer compliance, IRS has initiated a study using INS information. The results of this study are expected in the fall of 1988. (See pp. 18 and 19.)

Compliance Certificate Requirement for Departing Aliens

Aliens are required to obtain a tax compliance certificate from IRS to ensure that tax obligations are satisfied before they leave the United States. Neither the law establishing this requirement nor its legislative history indicate how the requirement is to be enforced. In practice, IRS advises aliens of the requirement through a publication they receive when they enter the country and IRS relies on them to voluntarily comply. (See pp. 20 to 24.)

Alien Compliance Programs Not Being Administered in Accordance With IRS Procedures

IRS has two compliance programs directed at ensuring that nonresident aliens are having the appropriate amount of tax withheld from their income. Those programs are not being administered in accordance with IRS procedures. IRS district office personnel, for example, are generally not following up on leads received from INS on certain high income earning aliens. That situation might improve if specific personnel in IRS' district offices were designated to coordinate compliance efforts at the local level and information IRS received from INS provided more of a basis for screening and prioritizing alien leads such as identifying those aliens with short U.S. visitation periods. (See pp. 24 to 31.)

Need for Management Information

GAO could not determine whether significant changes to IRS' alien compliance efforts are warranted, or whether the statutory requirement for compliance certificates is practical to enforce, because IRS has insufficient information on which to assess the effectiveness of those efforts. IRS does not have information on the extent to which aliens are complying with the tax laws nor information on the operating results of its compliance efforts. It does not know, for example, how many aliens should be and are obtaining compliance certificates, how many leads have been received from INS or what results have derived from those leads. (See p. 31.)

The October 1987 study IRS has initiated should provide some of that data. In addition, however, IRS needs to gather information on the results of its compliance efforts. GAO believes that in the interim there are certain steps IRS can take to better ensure that existing compliance efforts are functioning efficiently. (See pp. 31 to 33.)

Recommendations

GAO recommends that the Commissioner of Internal Revenue:

- Begin collecting the kinds of management information needed to assess the effectiveness of IRS' alien compliance efforts. That information should include, but not necessarily be limited to, the number of tax compliance certificates issued and the amount of tax collected as a result, the number of leads received from the INS and the results obtained, and the overall program costs and tax revenue associated with IRS' administration of its alien compliance efforts.
- Arrange with the Department of State to have U.S. embassies distribute information on the potential tax obligations of aliens.
- Obtain from INS the kinds of information necessary to better meet IRS' nonresident alien information needs.

- Designate specific district office personnel responsible for coordinating nonresident alien compliance efforts. (See p. 33.)

Agency Comments

Written comments were received from the State Department and IRS and oral comments from INS. (See app. IV and V.) IRS generally agreed with GAO's recommendations. INS had no comments on the report's findings; however, it said it would be willing to discuss with IRS alternatives for providing alien employment information. The State Department disagreed with GAO's recommendation that U.S. embassies distribute information on potential tax requirements for aliens seeking work permit visas in the United States. GAO believes that it may be more effective, in terms of improved compliance, to better target such tax information at the earliest stage of the immigration application process for those incoming aliens most likely to have a tax responsibility. IRS said it will meet with State Department officials to determine what overall information U.S. embassies do provide and to inform them of the kinds of tax information aliens should receive. (See pp. 34 and 35.)

Contents

Abbreviations

CWA	centralized withholding agreement
GAO	General Accounting Office
INS	Immigration and Naturalization Service
IRS	Internal Revenue Service
SSA	Social Security Administration
TCMP	Taxpayer Compliance Measurement Program
U.S.	United States

Introduction

The Subcommittee on Commerce, Consumer, and Monetary Affairs of the House Committee on Government Operations' October 8, 1985, letter asked us to evaluate the problem of nonfiling and income underreporting by resident and nonresident aliens lawfully residing in the United States.

U.S. Tax Requirements Affecting Resident and Nonresident Aliens

According to Immigration and Naturalization Service (INS) data, about 11.1 million aliens were admitted to the United States in fiscal year 1986. Most of those aliens came for reasons, such as tourism, that would not involve the receipt of income and thus not subject them to U.S. tax requirements. Many other aliens, however, earn income in the United States through a wide variety of employment or investment activities, which could subject them to U.S. tax withholding requirements and make them responsible for paying taxes or at least filing a tax return. The U.S. tax requirements affecting an alien differ depending on whether the alien is a resident or nonresident under tax law definitions. IRS' rules for making that decision are described in appendix I.

Essentially, nonresident aliens are foreign individuals who enter the United States on a temporary basis and are generally subject to tax on U.S. source income. However, special tax rules apply to the income of nonresident aliens, depending on whether the income is from investments or from business activities. Most business income is taxed, after appropriate deductions, at the same graduated rates which apply to U.S. citizens. Investment income and some business income are taxed at a flat rate of 30 percent of gross income, unless the rate is reduced in accordance with the terms of various tax treaties.

According to the Internal Revenue Code, resident aliens are those aliens who have been given the privilege, according to the immigration laws, of residing permanently in the United States as an immigrant or who meet an IRS substantial presence test, which is described more fully in appendix I. Resident aliens are taxed not only on their U.S. source income but on their worldwide income, in the same manner and at the same rates as U.S. citizens, and, unlike nonresident aliens, they are entitled to the same credits and deductions allowed U.S. citizens.

Nonresident aliens are required to file a tax return (Form 1040NR) which is specifically designed for them and are required to file their tax returns with IRS' Philadelphia Service Center. Resident aliens, on the other hand, are required to file the same tax returns and follow the

same filing procedures as U.S. citizens. They file with the service center responsible for the geographical area in which they reside.

Because resident aliens file the same returns as U.S. citizens, IRS cannot distinguish them and thus does not maintain data on the number of resident aliens filing U.S. tax returns. Because nonresident aliens are required to file their returns on a form specifically designed for them, however, IRS does have statistics on the number of such filings. As shown in table 1.1, the number of those returns has generally increased since 1982.

Table 1.1: Number of Form 1040NRs Filed Annually by Nonresident Aliens

Calendar year	Number of 1040NRs filed	Percent increase (decrease)
1982	105,592	
1983	109,729	3.9
1984	109,419	(0.3)
1985	129,928	18.7
1986	153,512	18.2

Source: Information provided by IRS' Office of the Assistant Commissioner (International)

IRS' Organization for International Tax

In May 1986, IRS established the Office of the Assistant Commissioner (International) to unify in a single headquarters organization all IRS operational components having an international tax focus. Among other things, the office is responsible for (1) administering tax laws as they apply to U.S. taxpayers abroad and U.S. citizens and residents living in the United States and engaged in foreign transactions; (2) reviewing tax matters relating to non-U.S. citizens subject to U.S. taxes; (3) working with foreign tax administrators on tax treaty matters and in developing and strengthening other governments' tax administration systems; and (4) providing functional guidance and oversight to international tax activities in IRS' 64 district offices. These activities include IRS' nonresident alien compliance programs and the examination of returns of U.S. taxpayers having international transactions.

Objectives, Scope, and Methodology

On the basis of the Subcommittee's October 8, 1985, request and later discussions with the Subcommittee our objectives were to

- develop information to quantify the extent of tax return nonfiling by aliens in the United States (see ch. 2) and

- evaluate IRS' programs aimed at identifying and collecting any taxes due the U.S. Treasury on income earned by aliens in the United States (see ch. 3).

To achieve our first objective and in the absence of IRS data on alien taxpayer compliance, we attempted to develop quantitative evidence on whether a nonfiling problem might exist for foreign nationals living and working in the United States. In order to determine whether aliens living and working in the United States were meeting their tax filing responsibilities, we attempted to identify a listing of such aliens that could be matched to IRS' computerized file of individual taxpayer data (called the individual master file). We interviewed officials of the State Department, the Social Security Administration (SSA), and INS and found no such listing was available. We did identify, however, certain nonimmigrant visa applications[1] filed with INS that contained sufficient information to allow for a computerized match against IRS' master file.

The State Department issues various types of visas depending on the alien's status or his/her purpose for wanting to enter the United States. INS determines the admissibility of aliens seeking to enter the United States in various visa categories. A review of INS' statistics for fiscal year 1986 (see app. II) showed that most of the nonimmigrants admitted to the United States that year were temporary visitors. For example, of the approximate 10.5 million nonimmigrants who entered the United States in fiscal year 1986, about 7.3 million, or 70 percent, were categorized as tourists. Further analysis of the statistics indicated that many of the remaining nonimmigrants may not be subject to U.S. tax due to their visa classification (diplomats, representatives to international organizations, etc.)

Consequently, we decided to select our cases from among those nonimmigrants who applied for visa types which, according to INS officials, allowed for U.S. employment and would have the highest potential for earning U.S. income. Those nonimmigrants fell into four categories—

[1]*INS defines a nonimmigrant as an alien who seeks temporary entry to the United States for a specific purpose*—as opposed to an immigrant, who is admitted as a permanent resident. It is important to note that a nonimmigrant for INS purposes can be either a resident or nonresident alien for tax purposes. Nonimmigrants include: foreign government officials, officials and employees of international organizations, visitors for business and pleasure, students, trainees, temporary workers of distinguished merit and ability, and temporary workers who perform services unavailable in the United States. Refugees also are considered nonimmigrants when initially admitted to the United States.

treaty traders/investors;[2] persons of exceptional merit and ability, such as professional entertainers, musicians, and models; journalists; and intracompany transferees. For ease of presentation, future reference to these categories will be by the type of visa they receive—E, H1, I, and L1 respectively.

Due to differing filing systems used by the INS district offices we visited and the amount of missing information on many applications in the files, we were unable to establish a universe of nonimmigrant applications. The absence of a definable universe precluded us from developing a sampling methodology that would allow us to project the results of our computerized match nationwide.

Therefore, we selected a nonrandom sample of 545 nonimmigrant visa applications from files maintained at INS district offices in San Francisco, California; Atlanta, Georgia; New York, New York; Dallas, Texas; and Washington, D.C. In selecting nonimmigrant cases from INS' files, we chose those that could be matched easily to IRS' computerized taxpayer files and which contained information to indicate that the alien had sufficient income and physical presence in the United States to most likely have a tax filing requirement. To that end, we selected applications from INS' files for those aliens who (1) had a social security number, (2) had worked in the United States for at least a year before January 1984, and (3) had a stated annual income of $20,000 or more. By selecting application forms which indicated that the alien had been working for at least 1 year, we attempted to include only aliens that would have a tax payment responsibility. Under most U.S. tax treaties, if an alien is present in the United States for less than a specified maximum number of days during the tax year and certain other requirements are met, the alien will be exempt from U.S. tax on income from working in the United States. The information we obtained from these applications also included the alien's name, occupation, and country of origin.

After obtaining our sample, we had IRS match the aliens' social security numbers and names against IRS' individual master file to see if the aliens had filed tax returns. If the match indicated that an alien had not filed, we referred the case to IRS' Office of the Assistant Commissioner (International). Collection personnel from that Office followed up on our

[2]Aliens from countries that have trade treaties with the United States and who are either (1) representing companies that carry on trade with the United States or (2) directing and developing businesses in which they have invested a substantial amount of capital.

referrals in an attempt to determine whether the aliens were nonfilers and, if so, whether they had valid reasons.

To achieve our second objective of assessing IRS' programs for assuring that aliens are meeting their tax filing and payment responsibilities, we evaluated two compliance programs specifically targeted at nonresident aliens and administered by the Offices of the Assistant Commissioner (International) and the Assistant Commissioner (Collection) in coordination with IRS district offices. IRS does not have separate compliance programs targeted at resident aliens because IRS does not differentiate between tax returns filed by those aliens and returns filed by U.S. citizens.

The compliance programs we evaluated are known as the Nonresident Alien Program and the Nonresident Alien Entertainer Program and are directed at nonresident aliens of distinguished merit and ability, such as entertainers and sports figures. According to INS statistics, about 54,426 aliens were admitted to the United States in fiscal year 1986 under the H1 visa category. We interviewed program officials in the Office of the Assistant Commissioner (International); reviewed documentation on the results of their monitoring visits to some district offices; and analyzed program procedures, including those involving coordination between IRS and INS. We also interviewed six entertainment industry representatives, including promoters and agents, to solicit their views on IRS' administration of the Nonresident Alien Entertainer Program.

Under the Nonresident Alien Entertainer Program, we gathered information on IRS' procedures designed to eliminate excessive tax withholdings from nonresident alien entertainers who earned income in the United States. Nonresident alien entertainers are usually subject to a withholding rate of 30 percent of gross receipts. However, IRS may reduce the rate after reviewing the entertainer's projected income and expenses. We identified and reviewed all reduced withholding agreements between IRS and nonresident alien entertainers that were in effect during calendar year 1986 and compared them to IRS' guidelines and criteria for issuing and administering such agreements. Also, for those nonresident alien entertainers who had entered into 1983 or 1984 tax withholding agreements with IRS, we obtained individual taxpayer master file information to determine whether such aliens had met U.S. tax return filing requirements in accordance with the terms of their agreements.

We also examined IRS' efforts with respect to section 6851(d) of the Internal Revenue Code, which requires that most resident and nonresident aliens departing the United States obtain from IRS a certificate of compliance or "sailing permit." The purpose of this requirement, which is administered by IRS' Taxpayer Service Division, is to establish, before an alien leaves the country, whether he or she owes the federal government any tax returns and/or tax. We interviewed IRS program officials responsible for administering this requirement; analyzed applicable criteria, including the Internal Revenue Manual and IRS regulations; and reviewed pertinent reports, memorandums, and statistics dealing with the administration and enforcement of this program.

Our work was done from November 1985 through August 1987. We did not test the accuracy or adequacy of the computer generated matching data provided by IRS. Other than this exception, we performed our work in accordance with generally accepted government auditing standards.

Insufficient Information Exists on the Extent of Alien Compliance With Tax Requirements

IRS lacks sufficient information to determine whether aliens living and working in the United States are properly meeting their U.S. tax filing and payment responsibilities. Because of that and in recognition of the fact that aliens may not be filing federal income tax returns, the Office of the Assistant Commissioner (International) has begun a study to assess whether and to what extent alien noncompliance is a problem.

IRS Lacks Data on Alien Compliance With Tax Requirements

Although IRS has various studies and programs directed at identifying individuals who fail to file required returns and who do not report all of their taxable income, none, according to IRS officials, provide information with which to measure the compliance level of resident or nonresident aliens.

IRS has a document matching program, internally referred to as the Information Returns Program, which is one of several computerized compliance programs within IRS. Under this program, IRS matches information returns such as wage, interest, and dividend statements with the related individual income tax returns. Through this matching process, IRS is able to identify the under or overreporting of income and deductions and the nonfiling of tax returns. According to IRS officials, results from the Information Returns Program are not captured in a way that provides compliance information for resident and/or nonresident aliens.

The Taxpayer Compliance Measurement Program (TCMP) is IRS' primary vehicle for identifying the extent to which taxpayers are misreporting income and deductions on filed tax returns. TCMP data are derived through comprehensive audits of a randomly selected national probability sample of filed returns. The weighted results of this sample provide estimates of misreported income, deductions, exemptions, and credits. An IRS Research Division official told us that TCMP results do not break out income misreporting by alien taxpayers and that the number of nonresident alien tax returns (1040NRs) in the TCMP samples would probably be too few to draw any conclusions.

Although no estimates exist that quantify the level of alien taxpayer noncompliance, indications are that such a problem may exist. In a 1987 publication on issues in international taxation, for example, the Organisation for Economic Co-operation and Development[1] made the following

[1]This is an international organization made up of 24 member countries, including the United States, that have been actively involved in the prevention of tax evasion and other international tax administration issues.

observations about the taxation of income derived from aliens involved in entertainment, artistic, and sporting activities:

"There are no reliable quantitative estimates available of tax non-compliance in this [the entertainment] area, whether in terms of the amount of income involved or revenue forgone. Nevertheless, where countries have undertaken systematic audits . . . of these activities, they have shown clear evidence of non-compliance in this area.

"Whilst some countries do not consider such activities of major importance, given the limited number of persons involved in international activities of this sort and the relatively small amounts of revenue involved, there is general agreement that where a category of—usually well-known—taxpayers can avoid paying taxes this is harmful to the general tax climate, which therefore justifies coordinated action between countries."

In a January 1985 memorandum to the Assistant Commissioner (Collection), the Director of IRS' Foreign Operations District[2] noted that the Department of State had expressed a concern that certain aliens (those with E, H, and L visas) were failing to file tax returns and pay taxes. The Director noted also that the Department of State had suggested that IRS coordinate with INS and SSA to institute a system which would identify aliens with certain types of visas. In response to that suggestion and related correspondence from IRS officials overseas, the Director recommended that the Assistant Commissioner's office pursue this issue. According to an August 21, 1985, memorandum, IRS was considering a test of compliance among E, H, and L visa holders using the Philadelphia Service Center. With the initiation of our work in November 1985, however, IRS delayed any further alien compliance research pending our results.

Results of GAO's Computer Match

We tried to quantify whether and to what extent an alien nonfiling problem existed by matching a nonrandom sample of 545 nonimmigrant visa applications obtained from INS against data in IRS' individual taxpayer master file for tax years 1981 through 1985. That match occurred in July and August 1986—after the due date for filing 1985 returns. As shown in table 2.1, the match produced results indicating that 135 of the 545 aliens in our sample had either not filed a tax return or had stopped filing a return sometime over the 5-year period.

[2]In May 1986, IRS abolished the Foreign Operations District and transferred responsibilities to the newly created Office of the Assistant Commissioner (International).

Table 2.1: Initial Results of GAO's Computer Match for Tax Years 1981 Through 1985

	Number of aliens				
Alien visa type	In sample	Who filed no return	Who stopped filing returns[a]	Total aliens referred to IRS	Percent of sample
E	198	12	31	43	7.9
H1	184	11	32	43	7.9
I	6	2	1	3	0.6
L1	98	4	26	30	5.5
Other[b]	59	6	10	16	2.9
Totals	**545**	**35**	**100**	**135**	**24.8**

[a]Aliens in this category are those who, according to our match, filed returns for some but not all of the years for which they appeared to have a filing obligation. Because we had no way of knowing if there was a legitimate reason for the cessation of filing, we referred those aliens to IRS for follow up.

[b]The "other" category includes visas provided to foreign government officials, temporary visitors for business reasons, and students. These aliens were inadvertently included in our sample.

We asked IRS to follow up on the 135 aliens to determine (1) whether they should have filed a tax return and, if so, (2) whether and to what extent any tax liability existed. IRS first conducted a second match of the master file to see if any returns had been posted to that file after we had conducted our match. For expediency purposes, IRS' second match was limited to tax years 1983, 1984, and 1985 because information for those years was readily available. Taxpayer information for years beyond the 3 most current years must be specially requested from IRS' Martinsburg, West Virginia, computer facility—a step which we did for our July to August 1986 match. As a result of the second match, in December 1986, IRS identified 26 aliens who had filed tax returns and thus were determined to be compliant. An IRS official said these 26 cases involved returns that had been posted to the master file after our first match.

For the remaining 109 cases, IRS mailed a letter requesting that the aliens forward copies of their filed tax returns if they had filed or complete an attached questionnaire if they were not required to file. Of the 109 aliens, 42 responded to IRS' letter. All 42 provided reasons why they had no outstanding filing requirement—the predominant reason being that they were not in the United States during the year in question—and IRS closed their cases. IRS was able to verify some of the reasons through documents submitted by the aliens, but other reasons were unverified. Another 22 cases were closed after IRS' letter was returned undeliverable or was delivered but unanswered. Of the 22 cases, 14 were closed because IRS had determined, through a check of INS' records, that the alien had left the United States (even though 6 had left after

the tax year in question and thus might have been liable to file) and 8 were closed because the only address IRS had for the alien was a foreign one.

In summary, IRS' second match and follow-up letter resulted in 90 of 135 cases being closed. Of the 45 remaining cases, 21 involved letters that were returned to IRS as undeliverable and 24 involved letters that were delivered but were unanswered by the alien. Unlike the undelivered or unanswered cases that IRS had closed above, these 45 involved aliens who had addresses in the United States and for which IRS had no evidence to suggest that they had left the country. IRS had originally intended to refer such cases to collection personnel in IRS' district offices for further follow up. IRS officials in the national office subsequently decided, however, that it was not cost effective to continue pursuing these cases and did not refer any. In reaching that decision, IRS noted, among other things, that (1) INS' records were incomplete and thus some of the 45 aliens had probably left the United States and (2) there was little chance that the aliens whose letters had been returned undeliverable could be located.

IRS' reasons for closing the 135 cases are summarized in table 2.2.

Table 2.2: IRS' Disposition of Alien Cases Referred by GAO

Reason cited by IRS in closing cases	Number of cases
Alien filed return per results of IRS' second match of taxpayer master file.	26
Alien left the United States before the tax year in question and therefore owes no tax.	13
Alien was married and filed under spouse's social security number for 1 or more years.	10
IRS' letter was returned undeliverable (three cases) or unanswered (five cases). Because the alien had a foreign address, IRS decided to close the case.	8[a]
Alien with a domestic address did not answer IRS' letter. After checking with INS, IRS determined that the alien had left the United States before the tax year in question and thus was not liable.	8
Alien had filed under the correct social security number but the wrong number was entered on INS documents.	7
Alien with a domestic address who did not answer IRS' letter. After checking with INS, IRS determined that the alien had left the United States after the tax year in question.	6[a]
Alien was exempt from tax—resided in the United States less than 90 days.	4
Other—for example, the alien's visa exempted the holder from paying income taxes or the alien's income was below the amount for which a return must be filed.	8
IRS' letter was returned undeliverable (21 cases) or unanswered (24 cases). Although alien had a domestic address, IRS decided the case was not cost effective to pursue.	45[a]
Total	**135**

[a]Unlike the other cases, these 59 were closed not because of any evidence that the alien had no outstanding filing requirement but because IRS' letters to the aliens were unanswered or undelivered or because the alien had apparently left the country, making further follow up more difficult and less cost effective.

IRS Has Begun a Study of Alien Compliance

Although IRS did not produce any evidence of noncompliance in pursuing our cases, officials from the Office of the Assistant Commissioner (International) reported that our efforts gave them "an excellent opportunity to gain some experience and refine our research techniques for a much broader study of alien compliance." Accordingly, the Office decided to conduct a compliance study of aliens with the same four visa types that we used. The study, as originally planned, was to involve between 2,000 and 5,000 names randomly selected from an INS computerized data base and was to address the following issues:

- The projected percent of aliens who are noncompliant.
- Whether certain visa holders are more likely to not file and not pay.
- Whether aliens from certain countries are more likely to not file and not pay.

- Whether existing programs are sufficient to ensure compliance.
- The cost effectiveness of establishing a separate program to ensure alien compliance.

IRS subsequently modified the study's scope but still intends to address the previously mentioned issues. On October 21, 1987, the Assistant Commissioner (International) sent a letter to INS requesting that it pull a random sample of 400 aliens who (a) entered the United States before July 1, 1986; (b) are still present in the United States; (c) were born on or before December 31, 1962; and (d) have either an E, H1, I, or L1 visa. An official in the Assistant Commissioner's office told us that IRS would check the 400 names against its computerized tax files and would send letters to the aliens if warranted. He said that results were not expected until the fall of 1988 and that IRS would decide, based on the results, whether further work will be done.

Conclusions

IRS has no data that specifically focuses on the extent to which aliens are complying with U.S. tax requirements. IRS officials responsible for alien compliance recognize the need for such information and have designed a study to start getting it. One of IRS' criteria for identifying aliens to be included in its study is that the alien still be in the United States. That constraint confirms what our study indicated—once an alien leaves the United States, attempts to pursue him or her become more complicated. Of the alien cases we referred to IRS for follow up, 59, or 11 percent of our initial sample, were closed not because of any evidence that the aliens had no outstanding filing requirement but because IRS' letters to the aliens were unanswered or undelivered and IRS knew or suspected that many of those aliens had left the United States.

In our opinion, the fact that many aliens are only in the United States temporarily and the difficulties that arise in trying to enforce compliance once they leave make it imperative that IRS take reasonable steps to ensure compliance while they are still in the country. That issue is discussed in chapter 3.

IRS Could Do More to Ensure That Aliens Meet Their Tax Obligations

The three primary vehicles available to IRS to help it ensure that aliens satisfy their tax responsibilities before leaving the United States are a legislative requirement that certain departing aliens obtain a departure permit and two programs that are directed at nonresident aliens. The legislative requirement is not being monitored or actively enforced and the programs are not being administered in accordance with established procedures. Because IRS has insufficient management information on the results of its alien compliance efforts, neither it nor we are in a position to assess the effectiveness of those efforts and thus are in no position to decide whether significant changes are warranted. In our opinion, however, there are changes that IRS can make to existing alien compliance efforts, seemingly without a large increase in resources, to better ensure that aliens have satisfied their tax obligations before leaving the United States.

IRS Does Not Monitor or Actively Enforce the Alien Sailing Permit Requirement

IRS does not monitor or actively enforce compliance with a statutory requirement,[1] established in 1921, that most aliens departing the United States obtain a certificate of compliance or "sailing permit." The purpose of this requirement is to establish whether a departing alien owes the U.S. government any tax returns and/or tax and to satisfy that obligation before he or she leaves the country. An alien's ability to leave the United States without obtaining the required sailing permit does not mean he or she has left behind an outstanding tax liability, but it does mean that the opportunity exists.

A sailing permit can be obtained by filing one of two forms with an IRS district office at least 2 weeks before leaving the United States. Form 1040C is used by aliens leaving the United States to report both income received and income reasonably expected to be received during the tax year. Form 2063 is filed by departing aliens with no taxable income or by resident aliens who will be returning to the United States and whose tax liabilities are current. The filing of one of these forms does not relieve an alien of the obligation to file an income tax return (1040 or 1040NR) as required by law.

Not all departing aliens have to obtain a sailing permit. Some, such as diplomatic representatives of foreign countries, their families, and their servants, are exempted from the sailing permit requirement for reasons

[1]Section 6851(d) of the Internal Revenue Code provides that "no alien shall depart from the United States unless he first procures from the Secretary [of the Treasury] a certificate that he has complied with all the obligations imposed upon him by the income tax laws."

of international comity. Others, such as tourists, business visitors, crews on foreign transportation carriers, students, and industrial trainees, are exempted based on the transitory nature of their stay in the United States.

Taxpayer service personnel in IRS' district offices are responsible for processing requests for sailing permits. As discussed in IRS Publication 519 (U.S. Tax Guide for Aliens), an alien seeking a sailing permit is supposed to bring several records to the district office including

- copies of U.S. income tax returns filed for the past 2 years and receipts for taxes paid on those returns;
- receipts, bank records, cancelled checks, and other documents that support deductions, business expenses, and exemptions claimed on the returns;
- employer statements showing wages paid and taxes withheld from January 1 of the current year to date of departure, if the alien was an employee; and
- a profit-and-loss statement prepared for the period from January 1 of the current year to the date of departure, if the alien was self-employed.

If it is determined that the alien owes any tax, he or she must either (1) pay that tax, (2) post a bond acceptable to IRS, or (3) submit a letter from the alien's employer guaranteeing payment of the tax. Taxpayer Service officials in IRS' national office said that information on the amount of tax dollars collected as a result of the sailing permit process is not collected nationally nor is it readily available at the district offices.

IRS Has No Assurance That Required Sailing Permits Are Being Obtained

According to IRS, the number of 1040Cs filed with IRS dropped from about 176,000 in calendar year 1960 to 1,245 in fiscal year 1986. In comparison, according to a February 1985 IRS research document, there was a tenfold increase in the number of aliens present in the United States between 1960 and 1983, and that over the same period the number of alien departures to total alien population in the United States remained relatively constant. We were unable to gather any historical information on the filings of Form 2063 because IRS does not maintain such statistics.

IRS does not know how many aliens should be filing for sailing permits and thus has little basis for knowing the extent of compliance with that requirement. That was illustrated by the results of a 1987 internal audit

of IRS' processing of certain international returns and documents. During that audit, IRS' Internal Audit Division reviewed a sample of filed Form 1040Cs to determine whether the aliens involved had also filed required tax returns (1040 or 1040NR). The auditors found that the aliens, with few exceptions, had filed those returns. The auditors reported, however, that:

> "we were unable to identify from IRS records taxpayers who did not file Forms 1040C and related 1040NR or 1040. The Service needs outside information, such as Immigration and Naturalization Service or State Department information to determine the extent of noncompliance among departing aliens. Such information should include the extent of border checks for evidence of certificates of tax compliance."

The above information was conveyed to various IRS officials in a May 1987 briefing paper. On July 23, 1987, a representative of the Office of the Assistant Commissioner (International) told us that no action had been taken or was planned on the auditors' suggestion.

Neither the law establishing the sailing permit requirement nor its legislative history indicate how the requirement is to be enforced. As suggested by Internal Audit, border checks are one possibility. In that vein, both IRS regulations on the requirement and an IRS publication indicate that an alien attempting to depart the United States without a sailing permit will be subject to an income tax examination by IRS at the point of departure. IRS Taxpayer Service officials told us, however, that no such examinations have occurred and that IRS does not enforce the sailing permit requirement by checking departing aliens for possession of permits. They believed such a procedure would be both expensive and of limited value to IRS

Because INS and the U.S. Customs Service maintain a presence at major U.S. departure points, we inquired as to whether they checked departing aliens for sailing permits. Both agencies said they did not nor were they required to monitor departing aliens for tax clearances. INS did include a paragraph on U.S. federal tax information, including the requirement to obtain a sailing permit, in a publication made available to aliens entering the United States.

IRS Has Reviewed Enforcement of the Sailing Permit Requirement

IRS has primarily relied on aliens voluntarily complying with the sailing permit requirement. However, a task force representing IRS' major functional areas met several times in the spring of 1983 to consider the feasibility and utility of enforcing the requirement. The group concluded, in

an August 1983 memorandum to an Assistant to the Commissioner of Internal Revenue, that the sailing permit could be a valuable compliance tool but a new system to enforce the requirement would not be appropriate. The conclusion was based on their belief that "IRS can not impose a sanction on a violator nor effectively use information of violations of the sailing permit requirement." The task force reported, for example, that knowledge of an alien's failure to obtain a sailing permit before departure would not be sufficient reason for IRS' collection function to open an investigation given the fact that there may not be a tax liability.[2]

Although the task force did not recommend a new system for enforcing the sailing permit requirement, it did recommend a number of changes aimed at improving voluntary compliance with the requirement. One of the primary recommendations was to amend existing IRS regulations to remove the burden of obtaining a sailing permit from those aliens that the task force believed "do not pose a significant compliance problem." Included among those aliens were nonresident aliens who are present in the United States under a visa that does not allow them to be employed or do not earn more than $3,000 in the United States. Also included were most resident aliens because the task force felt that such aliens have economic, social, or family ties to the United States thereby making it unlikely that their temporary departure on a vacation or a business trip would increase the risk of IRS being unable to collect taxes due from them.

The task force also recommended that IRS increase the amount of information disseminated to aliens about the sailing permit requirement. They believed that voluntary compliance with the requirement could be increased by publicizing its existence and the steps aliens must take to comply. Specifically, the task force recommended that IRS:

"Distribute information on U.S. tax laws that apply to nonresident alien individuals and on the sailing permit requirement by having U.S. embassies hand out pamphlets with U.S. visas (other than tourist visas)."

Currently, information on U.S. tax laws is made available to aliens as they enter the United States in the form of an INS publication that contains information on a variety of topics in addition to tax. The task force

[2]IRS' collection function is concerned with collecting outstanding tax liabilities and consequently looks to the amount of the liability involved when evaluating a case.

believed that incoming aliens immediately discarded most of the information they received when entering the country and that aliens would more likely read information received with their visas and thus become aware of any potential U.S. tax obligations.

An official of IRS' Office of Chief Counsel told us that IRS has not acted on any of the task force's recommendations, except to draft changes to the sailing permit regulations. The draft regulations, which were intended to streamline the sailing permit requirement, were forwarded to the Treasury Department's International Tax Counsel for review in March 1986. The regulation project was subsequently closed, however, before the revisions could be finalized, due to higher priority regulation projects generated by passage of the Tax Reform Act of 1986.

Nonresident Alien Compliance Programs Are Not Being Administered According to IRS Procedures

In discussing IRS efforts to ensure that aliens satisfy their U.S. tax responsibilities, it is important to distinguish between employed and self-employed aliens. The former are subject to the same withholding and information reporting requirements as U.S. citizens; the latter are subject to unique withholding requirements. Personal service income earned by self-employed aliens is subject to withholding at a rate of 30 percent or at a lower rate specified in the tax treaty between the United States and the alien's country. Because self-employed aliens are subject to different withholding requirements and because the potential for noncompliance among self-employed aliens may be greater than among employed aliens, IRS believes that its nonresident alien compliance programs would be most effective if they focused on ensuring that self-employed aliens are having the appropriate amount of income tax withheld. Those compliance programs, implemented by IRS in the 1970s and referred to as the Nonresident Alien Program and the Nonresident Alien Entertainer Program, are not being administered according to established procedures.

Nonresident Alien Program

Section 56(10)2 of the Internal Revenue Manual establishes a Nonresident Alien Program that is administered by collection personnel in IRS' 64 district offices and in the Office of the Assistant Commissioner (International) in Washington, D.C. This program deals with aliens who have been granted H-1 visas. Those visas are usually granted to aliens of distinguished merit and ability, such as entertainers and sports figures, to perform services of an exceptional nature. INS reported that 54,426 H-1 visa holders entered the United States in fiscal year 1986.

Program procedures provide for INS to send a copy of its Form I-171C, Notice of Approval of Nonimmigrant Visa Petition, to the IRS district office closest to the INS office that approved the alien's request for a visa. Rather than send IRS a copy of this form for each alien who is issued an H-1 visa, INS sends a copy only for those aliens who expect to obtain earnings in excess of a specified dollar amount. The nonimmigrant approval notice contains the alien's name and length of stay and includes basic information about the person in the United States (known as the petitioner) who filed the request with INS to authorize the alien's stay in this country.

Because nonresident aliens frequently stay in the country only a brief time, according to IRS, it is important that district offices process the INS forms expeditiously. IRS procedures call for district collection personnel to attempt to identify and contact anyone who may be paying compensation to the H-1 visa holder in order to assure that proper withholding occurs. In doing so, collection personnel are supposed to visit local INS offices to review their files on the nonresident alien, including INS Form I-129B, Petition To Classify Nonimmigrant As Temporary Worker or Trainee. This form asks for information on where the nonresident alien will be working, the level of his or her income, and the duration of his or her U.S. employment.

If the INS file indicates that the alien is a self-employed performer, collection personnel, depending on the amount of time before the alien's appearance, are to send the promoter of the event a withholding agent contact letter (see app. III) and/or visit the promoter to determine who is responsible for withholding the tax and to ensure that the withholding agent is aware of the tax responsibilities. IRS procedures also require that districts immediately advise the Office of the Assistant Commissioner (International) of any case involving a self-employed nonresident alien if the alien's gross income is projected to exceed a specified dollar amount or if the district office becomes aware that the alien had prior contact with the Office of the Assistant Commissioner (International). According to IRS, most cases meeting these criteria involve aliens who are entertainers, actors, or athletes, or who are in other professions that may produce high income. The Office of the Assistant Commissioner (International) was designated to handle these cases because of its expertise with aliens and, as discussed later, the potential for entering into withholding agreements with the aliens as part of the Nonresident Alien Entertainer Program.

IRS has limited operating statistics and performance data on the Nonresident Alien Program. For example, no aggregate data was available on the number of INS Form I-171Cs (also referred to as H-1 leads) sent to and processed by collection personnel at the various IRS district offices around the country. The only program statistics available were obtained from field visits made to six IRS district offices in California, Maryland, Nevada, and New York by representatives from the Offices of the Assistant Commissioner (International) and the Assistant Commissioner (Collection). This data showed that H-1 leads at four of the six IRS district offices were backlogged or were not worked in accordance with prescribed collection procedures. At one IRS district office, for example, it was reported that the H-1 program was not a high priority and that a large number of H-1 leads were found stored at the district office unassigned.

IRS reports prepared on the above field visits showed that district office personnel seldom visited INS offices to review their files. Further, IRS documents showed that certain district offices were doing little to screen H-1 leads in an attempt to identify those involving aliens with either high income levels or short U.S. visitation periods. We asked INS personnel from two district offices about visits from IRS, and they confirmed that such visits were rare.

We also found that IRS district office collection staff were referring few H-1 leads to the Office of the Assistant Commissioner (International). We reviewed program files maintained by the Assistant Commissioner's office for 1986 and identified only one H-1 lead that an IRS district office had referred to the national office. This problem was confirmed by a representative of the Office of the Assistant Commissioner (International) who reported in October 1986 that he had received no district office referrals since assuming his position in April 1986 and had identified closed leads in one of five districts he visited that should have been referred to the national office.

Another representative from IRS' Office of the Assistant Commissioner (International) told us that district offices were not routinely sending withholding agent contact letters to local box offices to verify that an alien entertainer may be performing and to establish a withholding agent that IRS could hold responsible. In addition, we noted that the withholding agent contact letter had not been revised since 1977 and contained outdated information. The letter points out, for example, that the withholding agent should use Form 512 to deposit the withheld

taxes, but that form no longer exists. Other areas of the contact letter that we believe should be revised are identified in appendix III.

Problems with the Nonresident Alien Program, such as those discussed above, might be mitigated if specific district office personnel were designated, as required by program procedures, to coordinate the program at the local level. This lack of local program direction and the problems it causes were confirmed in district office visitation reports we obtained from IRS' Office of the Assistant Commissioner (International). Problems cited at one district office included the collection staff's unfamiliarity with the Internal Revenue Code section dealing with the withholding of tax on nonresident aliens, and the district's inability to maximize its alien collection efforts due to poorly trained staff working H-1 leads. IRS program officials have developed a draft of proposed changes to the Internal Revenue Manual to better clarify district office procedures for working H-1 leads and training materials are being developed to supplement the revised procedures. We believe the designation of specific district office personnel to coordinate the program at the local level would help ensure that the procedures and training materials have their intended effect.

Another factor contributing to the problems discussed above may be the fact that the information district offices are receiving from INS provides little basis for screening H-1 leads to identify ones that would seem to warrant follow up. The Form I-171C that district offices receive from INS contains little more than the alien's name and some indication as to how long he or she will be in the country. However, there is another INS form (Form I-129B, Petition to Classify Nonimmigrant as Temporary Worker or Trainee), which contains information as to where the alien will be working, the period during which he or she will be working, the amount of wages he or she will be receiving, and the amount and nature of any other expected compensation. Also, in cases involving a petition for an H-1 visa, the INS instructions specify that copies of written contracts or summaries of oral contracts between the alien and the petitioner must be attached to the form. We believe that district office IRS personnel, in trying to assess the H-1 leads received from INS, would find the kind of information on or attached to Form I-129B more helpful than the information on I-171C.

Current IRS procedures provide for IRS personnel to obtain such information by visiting INS offices and reviewing their files. However, access to such files has become more difficult for IRS personnel due to changes in INS' processing and filing of I-129B information. According to an INS

headquarters adjudication official, effective August 1986, INS changed from a district to a regional service center format for processing a number of visa-related adjudication forms. Because of the change, Form I-129B and related information are now filed and stored at one of four INS regional adjudication centers rather than INS district offices. An IRS nonresident alien program official told us that he was aware of this change and was considering proposing to INS the possible redesign of the INS H-1 lead (Form I-171C) as a way of IRS gathering needed INS information. Such a change might also reduce IRS' need to visit INS to review its H-1 lead files.

Nonresident Alien Entertainer Program

In its 1987 publication on international taxation, the Organisation for Economic Co-operation and Development discussed the problems inherent in trying to ensure compliance by alien taxpayers. It noted that:

"Most difficulties arise with self-employed artistes and athletes, and it is mainly for them that an effective information-gathering system is desirable. Yet, it is usually difficult to identify and locate such people, even in cases where written contracts exist, because of a number of factors: the use of pseudonyms or stage names on agency contracts; the use of false social security numbers where these are noted on entertainment contracts; the fact that payments for services are made in cash, after deductions for agents' fees; the difficulty inherent in tracing and locating people two or three years following the rendering of the service."

IRS has a specific program directed at ensuring that high income self-employed aliens (who would often, but not always, be entertainers, actors, or athletes) pay appropriate taxes. That program, known as the Nonresident Alien Entertainer Program, is administered by the Office of the Assistant Commissioner (International) and centers around use of withholding agreements between IRS, the alien (hereinafter referred to as the entertainer), and a withholding agent.[3]

According to Entertainer Program procedures, the national office program coordinator is to "control 'leads' on nonresident alien entertainers, etc., entering the U.S." Potential sources for such leads include IRS district offices, INS, trade journals, and newspapers. Based on those leads, the coordinator is supposed to (1) contact the responsible parties to obtain information on the entertainer's itinerary and expected receipts and (2) determine whether a withholding agreement is necessary. We conducted a limited test to assess the effectiveness of the process for

[3]A withholding agent is a promoter, booking agent, or the like who is responsible for withholding the tax and remitting it to IRS. Some withholding agents serve in that capacity for several entertainers.

identifying program leads. We identified, from entertainment industry journals, a judgmental sample of 20 entertainers, most of whom were classical artists, who performed in the United States during 1985 or 1986. The Office of the Assistant Commissioner (International) had alien lead information on one of those entertainers—a rock group. The Entertainer Program coordinator told us that he did not initiate contacts with classical artists because (1) many worked for their governments and thus would be exempt from withholding and (2) classical concerts do not generate nearly as much gross revenues as do rock concerts. We did not have enough information on the entertainers in our sample to determine if they were working for their governments and/or what revenues they expected to gross.

Terms of Withholding Agreements Not Being Met

As noted earlier, a key aspect of the Nonresident Alien Entertainers Program is the withholding agreement between IRS, the entertainer, and the withholding agent. IRS refers to that instrument as a centralized withholding agreement (CWA) because it serves to consolidate the payment of withholding tax with one person (such as the tour promoter) rather than requiring someone at each stop on the tour to withhold taxes.

Nonresident Alien Entertainer Program procedures further describe the CWA as follows:

"Section 1441 of the Internal Revenue Code . . . sets forth withholding requirements for nonresident aliens earning money in the U.S. Generally, the rate of withholding is 30 percent of gross receipts for specified types of income, including personal service income. It is our position that nonresident alien entertainers are, in absence of strong evidence to the contrary, subject to withholding at the 30 percent rate, even if they claim that they are entitled to treaty benefits or that they are employed by a U.S. corporation since the validity of such claims generally cannot be determined until the end of the taxable year.

"Our experience in this area, however, indicates that rigid adherence to the 30 percent rate creates a financial hardship, which could result in cancelled tours and loss of any revenue to the Government. Also, in many instances in the past, entertainers received huge refunds when they filed their tax returns because the 30 percent rate does not always take into account lawful deductions incurred during the tour. Therefore, it is our practice to consider a CWA which provides for decreased withholding, based on a careful review of the projected income [and] expenses, and which contains certain concessions from the nonresident alien and withholding agents.

"The purpose of the agreement is to closely approximate the amount of tax which, in our opinion and based on our experience, will be owed ultimately by the taxpayer."

IRS' decision to use a CWA in a particular case depends on such things as the tour's estimated gross receipts, the length of time remaining before the tour is to start, and IRS' past experience with the prospective parties to the CWA (were the conditions of prior CWAs met, were filing requirements satisfied, etc.).

In signing a CWA, the withholding agent agrees, among other things, to file a final tour accounting within a specified amount of time after the end of the tour and the entertainer agrees to file an income tax return after the end of the tax year. Our review of IRS' files indicated that withholding agents and entertainers are not always complying with those terms.

In February 1987, for example, we reviewed IRS' files for the 43 CWAs that were in effect during calendar year 1986 to see whether required final tour accountings had been submitted. Those accountings are supposed to show all income received and all expenses paid by the entertainer in connection with the performance of services in the United States during his or her tour. IRS uses the final accountings to evaluate the correctness of the withholding tax paid by the foreign entertainer in accordance with the withholding agreement. Our review of IRS' files showed that final tour accountings had not been submitted for at least 7 of the 43 CWAs and that those accountings were from 1 to 16 months overdue with most being 5 months or longer overdue.

The Office of the Assistant Commissioner (International) has attempted to deal with the problem of unsubmitted final tour accountings by sending letters to noncompliant withholding agents reminding them of their responsibilities and the potential consequences associated with noncompliance. In one letter, for example, IRS advised the withholding agent that final tour accountings for nine entertainers were outstanding. The letter noted that:

"This delay in receiving tour information has been a continuing problem for at least a year and can no longer be tolerated . . . . Failure to comply may result in our refusal to enter into future withholding agreements with your firm."

Despite problems in receiving final tour accountings in a timely manner, we are aware of no instance in which IRS has refused to enter into subsequent withholding agreements with the entertainer or withholding agent. We tried to get some overall information on the results that derive from IRS' review of final tour accountings but none was available. In commenting on our draft report, IRS said that during the period of our review, they established an automated system which records such data as the number of CWAs issued and the amount of withholding collected as a result of these agreements including any additional money collected after final tour accountings were reviewed.

We also reviewed IRS' files for the 107 foreign entertainers who entered into CWAs for either tax year 1983 or 1984. Our review showed that as of March 5, 1987, at least 30 of the entertainers had not filed a year-end tax return (1040NR) contrary to Entertainer Program procedures and specific CWA provisions. Also, of the 30 entertainers, 2 had returned to perform in the United States during 1986 and had entered into subsequent CWAs with IRS.

Officials from the Office of the Assistant Commissioner (International) said they were not overly concerned that some entertainers had not filed year-end tax returns as required. Instead, they believed IRS' interests were protected because some taxes had been collected through the reduced rate withholdings. They pointed out, also, that even if some of those entertainers had filed, there may have been no tax liabilities involved if the tours had resulted in losses or in minimal profits that were exempt from U.S. taxation pursuant to tax treaties.

Conclusions

Nonresident aliens pose a unique problem for the tax administrator because they are only in the country temporarily. Once they leave the country, attempts to enforce tax requirements become more difficult. IRS has mechanisms in place that are intended to deal with that problem by ensuring an alien's compliance before he or she leaves the United States. Those mechanisms include a statutory provision that is not being enforced and may, in fact, be impractical to enforce, and programs that are not being administered in accordance with established procedures.

IRS does not have the kind of information needed to assess those alien compliance efforts. It does not maintain aggregate information, for example, on (1) the number of sailing permits issued and the amount of tax collected as a result of the permit process, (2) the number of alien leads received from INS and the results obtained, or (3) the results that

derive from final tour accountings. That kind of information is needed to assess the effectiveness of current efforts and to provide a basis for deciding whether significant changes to those efforts are warranted. Without such information, neither IRS nor we can answer such questions as:

- Is IRS directing an appropriate level of resources at enforcing alien compliance?
- Do the results of the sailing permit activity point to the need for more active enforcement to better ensure that aliens have such a permit before leaving the country or do the results, in combination with the practical considerations of trying to enforce such a requirement, warrant a recommendation that Congress rescind the requirement?
- Is IRS' focus on nonresident aliens who receive H-1 visas, and entertainers in particular, appropriate or should other INS visa categories of aliens be included?
- Should IRS be more active in enforcing the terms of central withholding agreements?

The study IRS has initiated as discussed in chapter 2 should provide some of the data needed to answer these questions. In addition, however, IRS needs to start gathering information on the results of its compliance efforts. Until IRS has that information and is in a position to decide whether major changes are needed, there are certain steps we think should be taken now to better ensure that existing compliance efforts are functioning efficiently. Those steps are directed at ensuring that incoming aliens are aware of their tax responsibilities and that IRS' compliance efforts are appropriately focused. As such, they should lead to a more efficient use of existing resources rather than the expenditure of significantly more resources.

To better ensure that aliens understand their tax responsibilities, IRS should arrange with the Department of State to have U.S. embassies provide information on U.S. tax laws and the sailing permit requirement to aliens when they obtain their visas. That kind of educational effort, which can be targeted at aliens who are required to obtain sailing permits, may be more effective than one that relies on the distribution of materials to all aliens as they enter the country.

To better ensure that existing compliance efforts are appropriately focused, IRS should work with INS to identify steps that can be taken to better meet IRS' information needs. Because IRS has determined that its compliance programs should be primarily directed at self-employed

aliens, its discussions with INS should focus on the kind of information that would help IRS' district office personnel identify aliens meeting that criterion. The INS document (Form I-171C) that IRS district office personnel receive does not completely serve that purpose. INS has other information in its files (such as Form I-129B) that may be more useful to IRS, but recent changes to INS' filing and record keeping procedures may hamper IRS' ability to obtain such information.

IRS' alien compliance efforts might also be enhanced if certain district office personnel were assigned responsibility for coordinating those efforts. Those coordinators could help ensure that district office personnel understand IRS' alien compliance programs and that the programs operate as intended. In conjunction with this effort, IRS should update the form letter used to contact withholding agents under the Nonresident Alien Entertainer Program.

Recommendations to the Commissioner of Internal Revenue

We recommend that IRS:

- Begin collecting the kinds of management information needed to assess the effectiveness of its alien compliance efforts. That information should include, but not necessarily be limited to, the number of tax compliance certificates issued and the amount of tax collected as a result of that process, the number of alien leads received from INS and the results obtained, the results that derive from final tour accountings, and the overall program costs and tax revenue associated with IRS' administration of its alien compliance efforts.
- Arrange with the Department of State to have U.S. embassies distribute information on the potential tax obligations of aliens, including where applicable, the need to obtain a tax compliance certificate.
- Obtain from INS the kinds of information necessary to better meet IRS' nonresident alien information needs. This might include the possibility of INS revising Form I-171C to include additional information that would be useful to IRS or sending Form I-129B to IRS.
- Designate district office personnel responsible for coordinating nonresident alien compliance efforts.
- Review and revise, as appropriate, the text of the withholding agent contact letter (Letter 1142(DO)) to bring it into conformity with current IRS forms and information.

Agency Comments and Our Evaluation

The Comptroller of the U. S. Department of State and the Commissioner of Internal Revenue commented on a draft of this report in their January 27, 1988, and February 17, 1988, letters, respectively. (See app. IV and V.) We also solicited comments from the Commissioner of the Immigration and Naturalization Service and received verbal comments on his behalf from a representative of INS' Office of Program Inspection. INS had no comments relative to the report's findings, but provided some clarifying information. Regarding our recommendation that IRS obtain additional alien information from INS, the INS representative said that INS would be willing to discuss the matter with IRS provided IRS develops a viable program for using the information. Further, INS expressed a preference for providing such alien information to IRS via automated systems rather than manually. IRS agreed with our recommendation and confirmed our conclusion that INS' Form I-129B contained more useful information for IRS purposes. IRS said it planned to meet with INS officials to explore this and other alternatives for obtaining additional alien employment information.

IRS agreed with our recommendation that further management information was needed to assess the effectiveness of its alien taxpayer compliance efforts, particularly as they relate to the effectiveness of the tax compliance certificate requirement. IRS informed us that it planned to reassess the provision's potential as a compliance tool and coordinate any legislative remedies with the Treasury Department and the appropriate congressional tax writing committees.

Both IRS and the State Department commented on our recommendation that IRS arrange with the Department of State to have U.S. embassies distribute information on the potential tax obligations of aliens. The State Department believes that such a change is not needed and would be duplicative of existing INS procedures which call for making available, to all aliens entering the United States, information on the potential tax requirements of aliens. IRS said that it provides "every U.S. embassy and consulate with income tax forms and publications which are available to anyone upon request." Further, IRS expressed its intention to meet with State Department officials to determine what overall information is currently being provided at U.S. embassies to aliens who are making application for visas. Lastly, IRS said it would "prescribe [to the State Department] the necessary tax information needed by aliens planning to enter the U.S. to ensure that they receive relevant information regarding their future potential U.S. tax liabilities."

As discussed earlier in this chapter, we believe it may be more effective for the U.S. government to provide, at the earliest time, information on potential tax responsibilities to those aliens that are most likely to incur a U.S. tax obligation. The early distribution of such information may help aliens better understand U.S. filing and tax requirements and have a positive effect on their compliance. Further, we believe the reinforcement of informing aliens of filing and tax requirements provides more potential benefit than the additional cost incurred with any duplicative distribution of such information by INS and the State Department. Accordingly, we believe it appropriate to target alien educational efforts at the visa application stage.

As also discussed earlier, an IRS task force, after studying the alien sailing permit requirement in 1983, came to a similar conclusion. The task force believed that incoming aliens immediately discarded most of the information they received when entering the country and that aliens would more likely read information received with their visas and thus become aware of any potential U.S. tax obligations.

IRS agreed in part with our recommendation that it designate IRS district office personnel to coordinate nonresident alien compliance efforts. IRS said it would consider the appointment of such coordinators in the two IRS districts in which approximately 85 percent of alien H-1 visa holders resided. These individuals would act as local coordinators and liaisons with the National Office. In addition, IRS has recently designated a National Office contact within the Office of the Assistant Commissioner (International) to provide technical advice and respond to IRS district inquiries regarding matters pertaining to nonresident alien programs. Lastly, IRS expressed its intention to monitor the volume of H-1 leads received throughout all districts to ensure the proper placement of alien compliance coordinators. Those steps, if implemented, would be responsive to our recommendation.

IRS agreed with our recommendation to review and update the text of the withholding agent contact letter and indicated that it had begun doing so.

IRS' Rules for Defining Resident and Nonresident Aliens

For U.S. tax purposes, a foreign individual living and working in the United States may be considered either a resident alien or a nonresident alien. IRS applies two tests for determining whether a foreign individual is a U.S. resident in any given year. One test is based on immigration status (called the green card test) and the other on substantial physical presence in the United States. All aliens not treated as resident aliens are considered nonresidents. The following explanations of both categories were taken from IRS' Publication 519, entitled U.S. Tax Guide for Aliens.

Resident Aliens

A foreign individual is a resident alien for U.S. income tax purposes if he or she meets either the green card test or substantial presence test. Under the green card test, a foreign individual is considered a resident alien if he or she is a lawful permanent resident of the United States under U.S. immigration law at any time during the calendar year. Under the substantial presence test, a foreign individual is considered a resident for the calendar year if he or she is present in the United States for at least 31 days during the calendar year and if the sum of those days plus the days present in the 2 preceding years, when each is multiplied by a specified multiplier, equals or exceeds 183 days. The substantial presence test formula is:

Table I.1: Substantial Presence Test Formula

Current year	days	x	1	=
First preceding year	days	x	1/3	=
Second preceding year	days	x	1/6	=
Total				

Thus, a foreign individual who is present in the United States for at least 183 days in a calendar year generally will be considered a U.S. resident for that year. Also, even a foreign individual who is present in the United States for substantially less than 183 days in a year may be considered a resident for that year, if the individual was present during either or both of the 2 preceding years and the total number of days, computed using the above formula, equals at least 183 days.

Nonresident Aliens

An individual who is not a U.S. citizen and is not considered a U.S. resident alien under the above rules is considered a nonresident alien. As such, U.S. tax will apply only to certain income from U.S. sources or from U.S. businesses.

Nonimmigrant Alien Admissions

Table II.1: Nonimmigrant Aliens Admitted to the United States in Fiscal Year 1986

Class of Admission (visa type)	Number		Percentage of total[a]	
	By visa type	By visa class	By visa type	By visa class
Foreign government officials and families				
Ambassador, public minister, career diplomatic, or consular officer (A1)	22,241		0.2	
Other foreign government official or employee (A2)	69,495		0.7	
Attendant, servant, or personal employee of A1 and A2 classes (A3)	1,990	93,726	0.1	0.9
Temporary visitors				
For business (B1)	1,937,929		18.5	
For pleasure (B2)	7,341,988	9,279,917	70.1	88.6
Transit aliens[b]				
Alien in transit (C1)	140,579		1.3	
Alien in transit to the U.N. (C2)	937		0.1	
Foreign government official and family in transit (C3)	7,434		0.1	
Transit without visa (C4)	94,909	243,859	0.9	2.3
Treaty traders and investors[c] and families				
Treaty trader (E1)	68,932		0.7	
Treaty investor (E2)	34,782	103,714	0.3	1.0
Students				
Academic student (F1)	255,529		2.4	
Vocational student (M1)	5,552	261,081	0.1	2.5
Spouses and children of student				
Academic student (F2)	26,622		0.3	
Vocational student (M2)	527	27,149	0.1	0.3
Representatives to international organizations and families				
Principal of recognized foreign government (G1)	8,107		0.1	
Other representative of recognized foreign government (G2)	8,003		0.1	
Representative of nonrecognized foreign government (G3)	326		0.1	
Officer or employee of international organization (G4)	41,491		0.4	
Attendant servant or personal employee of representative (G5)	1,451	59,378	0.1	0.6
Temporary workers and trainees				
Distinguished merit or ability (H1)	54,426		0.5	
Performing services unavailable in the United States (H2)	28,014		0.3	
Industrial trainee (H3)	2,919	85,359	0.1	0.8
Spouses and children of temporary workers (H4)		13,710		0.1
Representatives of foreign information media (I1)		16,919		0.1
Exchange visitors (J1)		130,416		1.2
Spouses and children of exchange visitors (J2)		32,591		0.3

(continued)

Class of Admission (visa type)	Number		Percentage of total[a]	
	By visa type	By visa class	By visa type	By visa class
Fiances(ees) of U.S. citizens (K1)		7,147		0.1
Children of fiances(ees) of U.S. citizens (K2)		923		0.1
Intracompany transferees (L1)		66,925		0.6
Spouses and children of intracompany transferees (L2)		41,093		0.4
NATO officials (N1)		6,969		0.1
Unknown		24		0.0
Totals		**10,470,900**		**100.0**

[a]Detail percentages do not add to totals due to rounding.

[b]Aliens passing through the United States on their way to another country and not intending to stay in the United States for more than a few days.

[c]Aliens from countries that have trade treaties with the United States and who are either (1) representing companies that carry on trade with the United States or (2) directing and developing businesses in which they have invested a substantial amount of capital.

Source: Developed by GAO from statistics reported by INS in its 1986 statistical yearbook.

Withholding Agent Contact Letter

Note: GAO comments supplementing those in the report text appear at the end of this appendix.

Internal Revenue Service Department of the Treasury

Date:

Names of Nonresident Alien Performers:

Dates of Appearances:

IRS Person to Contact:

Contact Address:

Contact Telephone Number:

We understand that the nonresident aliens named above will perform in the United States under a contract which you or your organization negotiated. We therefore want you to be aware of the responsibilities imposed by law for withholding tax from compensation paid to such performers.

Under sections 1441 and 1442 of the Internal Revenue Code, 30 percent of the compensation paid to a nonresident alien or foreign corporation must be withheld by the United States withholding agent. (For a definition of "withholding agent," see the instructions on the back of the enclosed Form 1042, U.S. Annual Return of Income Tax to be Paid at Source.) The same amount of tax must be withheld from certain other kinds of income (listed in the instructions on the back of Form 1042) that is includable in a nonresident alien's or foreign corporation's gross income from U.S. sources. Compensation that is paid to the nonresident alien's foreign or domestic agent, nominee, or representative is includable in the nonresident alien's own U.S. taxable income and is therefore subject to withholding in the same manner as though he had personally received it.

See Comment 1.

The withholding agent is personally liable for payment of any tax he is required to withhold and is protected by law from claims or demands that may be made against him for what he withholds.

He must withhold the tax even if the nonresident alien claims tax exemption *under a treaty between the United States and another country, because exemption* under such a treaty cannot be determined until the end of the tax year. (At the end of the tax year, the alien may claim the treaty's benefits and a refund of the tax withheld from him by filing Form 1040NR, U.S. Nonresident Alien Income Tax Return.)

The withholding agent should pay the tax in accordance with the instructions shown on the back of Form 1042. If he is required to make Federal tax deposits, he should use a separate tax deposit form, Form 512 for each deposit. If he does not have Form 512, he should mail the amount required to be withheld to the Internal

See Comment 1.

(Over)

District Director, 1201 E Street, N.W., Washington, D.C. 20226 **Letter 1142(DO) (6-77)**

See Comment 1.

Revenue Service employee identified as "Person to Contact" in the heading of this letter, at the address shown below that employee's name. He should attach to his payment a statement showing his name, address, and social security number. If a corporation is acting as withholding agent, the corporation's name, address, and employer identification number should be shown. In either case, the withholding agent should indicate that the payment is for "Withholding Tax on Nonresident Alien Individuals or Corporations."

Enclosed are blank Form(s) 1042S, Income Subject to Withholding Under Chapter 3, Internal Revenue Code. At the time the alien is paid for his performance, the withholding agent should give him completed Copy B of Form 1042S. If for any reason the tax was not withheld, the withholding agent should still complete Form 1042S, indicating no tax was withheld, and give a copy to the alien. This information is needed for the tax records of both the United States and the foreign country. The withholding agent should file a return on Form 1042, and attach to it Copy A of the Form 1042S he gave the alien. He should mail the Form 1042 and attachment to the Director, Philadelphia Service Center, Post Office Box 245, Cornwells Heights, Pennsylvania 19020, Attention: Clearing and Deposits Section, DP 312, for receipt by March 15 following the close of the calendar year.

We have enclosed with this letter a copy of Publication 515, Withholding of Tax on Nonresident Aliens and Foreign Corporations, which we hope you will find helpful.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Thank you for your cooperation.

Sincerely yours,

Enclosures:
Form(s) 1042
Form(s) 1042S
Publication 515

Letter 1142(DO) (6-77)

GAO Comment

1. Note: The underscored text indicates the informational items GAO believes should be revised to make the form letter current.

Comments From the Department of State

United States Department of State

Comptroller

Washington, D.C. 20520

January 27, 1988

Dear Mr. Conahan:

I am replying to your letter of December 23, 1987 to the Secretary which forwarded copies of the draft report entitled "Tax Administration: Opportunities Exist for Improving IRS' Administration of Alien Taxpayers Programs" for review and comment.

The enclosed comments on this report were prepared in the Bureau of Consular Affairs.

We appreciate the opportunity to review and comment on the draft report.

Sincerely,

Roger B. Feldman

Enclosure:
As stated.

Mr. Frank C. Conahan,
Assistant Comptroller General,
National Security and
International Affairs Division,
U.S. General Accounting Office,
Washington, D.C. 20548.

GAO DRAFT REPORT: TAX ADMINISTRATION: OPPORTUNITIES EXIST FOR IMPROVING IRS' ADMINISTRATION OF ALIEN TAXPAYER PROGRAMS

The Department of State has reviewed the GAO report on IRS' administration of the alien taxpayer programs and agrees that measures for increased tax collections are possible.

With respect to the recommendation that the United States Embassies and Consulates should distribute information to nonimmigrant aliens who potentially might be required to file a tax compliance certificate, we believe that such a change is not warranted in light of procedures already established in conjunction with the Immigration and Naturalization Service. Upon arrival in the United States, INS has available information on the potential tax requirements of aliens. For the State Department to duplicate this effort by distributing similar information at the time of visa issuance is not likely to be any more effective than the INS program and in fact may be of lesser value in that most of the visas we issue are for multiple entries. At least under the INS procedure the alien may receive the information each time he enters the United States.

Although we do not endorse the idea of distributing tax information to nonimmigrant visa applicants, we have engaged in a series of talks with IRS and INS regarding immigrant visa applicants. A significant proportion of immigrant visa applicants have in fact been living in the United States prior to appearing for their final immigrant visa interview. Several approaches have been suggested on how the various government agencies might coordinate their efforts to target those immigrant visa applicants who might have a United States tax liability. We suggest that the three agencies conclude an agreement on how best to address this issue.

Joan M. Clark
Assistant Secretary
Bureau of Consular Affairs

January 21, 1988

Comments From the Internal Revenue Service

COMMISSIONER

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

FEB 17 1988

Mr. William J. Anderson
Assistant Comptroller General
General Accounting Office
Washington, DC 20548

Dear Mr. Anderson:

We have reviewed your recent draft report entitled "Tax Administration: Opportunities Exist for Improving IRS' Administration of Alien Taxpayer Programs" and have enclosed detailed comments on the report recommendations.

We hope you find these comments useful.

With kind regards,

Sincerely,

Enclosure

IRS COMMENTS ON RECOMMENDATIONS
CONTAINED IN GAO DRAFT REPORT ENTITLED
"TAX ADMINISTRATION: OPPORTUNITIES EXIST FOR IMPROVING
IRS' ADMINISTRATION OF ALIEN TAXPAYER PROGRAMS"

Recommendation 1:

Begin collecting the kinds of management information needed to assess the effectiveness of its alien compliance efforts. That information should include, but not necessarily be limited to, the number of tax compliance certificates issued and the amount of tax collected as a result of that process, the number of alien leads received from INS and the results thereof, the results that derive from final tour accountings, and the overall program costs and tax revenue associated with IRS' administration of its alien compliance efforts.

Comment:

We agree that further data is needed to assess the effectiveness of our alien compliance efforts, particularly reconsideration of the effectiveness of section 6851(d), the tax compliance certificate requirement for departing aliens. As stated in your report, the requirement has had minimal compliance effectiveness because it is based on voluntary compliance by aliens. We plan to reassess the provision's potential as a compliance tool and we will coordinate any legislative remedies with the Treasury Department and the Congressional tax writing committees.

As pointed out in the GAO draft report, the Office of Assistant Commissioner (Collection) administers the alien compliance program directed to aliens who have been granted H-1 visas by INS. H-1 visas are issued to persons of exceptional merit and ability, such as professional entertainers, musicians and models.The H-1 visa program targets verification of withholding for those aliens with H-1 visas regardless of employment status. For our H-1 program to be more effective, we will need to obtain additional nonresident alien information from INS, as discussed further in recommendation 3.

Based on information gathered over the past year, we are considering streamlining this program to target compliance in dealing with the estimated universe of 5000 self-employed aliens. This category of INS leads has the most potential for noncompliance and for producing revenue, but currently only accounts for less than 10% of the leads received from INS. The majority of leads involve resident alien employees receiving U.S. compensation subject to U.S. withholding. This category is already subject to our normal compliance programs such as the abusive W-4 program and the Information Returns Programs (IRP). IRP is an efficient means of gathering information needed to check compliance on resident alien employees who are usually in the U.S. for at least two years. In addition, management information will be an integral part of our planned streamlined process.

We believe that our present Nonresident Alien Entertainer Program procedures are providing sufficient data to verify compliance with the withholding requirements established in sections 1441 and 1442 of the Internal Revenue Code. During the period of GAO's review, we established an automated system which records such data as the number of Centralized Withholding Agreements (CWAs) issued for any time period, and the amount of withholding collected as a result of these agreements including additional monies collected after final tour accountings are reviewed. For those CWAs where withholding is collected, the amount is usually sufficient to satisfy any potential tax liability. For tours involving losses, entertainers receive either minimal or no compensation which under most tax treaties would be exempt from U.S. income tax. Past experience has shown that most nonresident alien entertainers receive refunds from their Forms 1040NR, and it would not be cost effective for IRS to use its resources to pursue returns not involving additional tax due.

Presently, the Office of the Assistant Commissioner (International) is pursuing a study to assess alien compliance as stated in the GAO draft report. A random sample of leads has been obtained from INS. The sample includes aliens with several visa types, including H-1 leads. We expect that this study will provide valuable information towards measuring the extent of noncompliance among aliens in the United States.

In accordance with section 6039E of the Internal Revenue Code, enacted by the Tax Reform Act of 1986, we are also coordinating with the Department of State and INS to develop compliance efforts based on the reporting of tax identifying information on aliens applying for permanent residence.

Recommendation 2:

Arrange with the Department of State to have U.S. embassies distribute information on the potential tax obligations of aliens, including the need to obtain a tax compliance certificate, to aliens who would be required to obtain such a certificate.

Comment:

Presently, IRS is providing every U.S. embassy and consulate with income tax forms and publications which are available to anyone upon request. In addition, INS distributes a pamphlet to every alien entering the U.S.; this pamphlet includes information about potential U.S. tax requirements. IRS will meet with officials representing the Department of State to determine what information is currently being provided by the State Department at U.S. embassies for aliens who are making application for visas. We will prescribe the necessary tax information needed by aliens planning to enter the U.S. to ensure that they receive relevant information regarding their future potential U.S. tax liabilities.

Recommendation 3:

Obtain from INS the kinds of information necessary to better meet IRS' nonresident alien information needs. This might include the possibility of INS revising Form I-171C to include additional information that would be useful to IRS or sending Form I-129B to IRS.

Comment:

We agree with this proposal. Now that INS has reorganized into regional adjudication centers, IRS is not able to research local INS files in an efficient manner. INS centers are located in remote areas; therefore, staffing is not available in local IRS offices to service the large volume of leads generated by INS centers. Presently, INS Form I-171C contains only minimal information on the alien's employer (or sponsoring agent). Including additional minimal information such as the employer's name and address and identifying an alien as self-employed on the Form I-171C would greatly enhance IRS' ability to verify alien compliance. We agree with the GAO draft that the Form I-129B contains more useful information for IRS purposes. We plan to meet with INS officials to determine if INS can provide us with this additional information or explore other alternatives.

-4-

Recommendation 4:

Designate district office personnel responsible for coordinating nonresident alien compliance efforts.

Comment:

We agree with this proposal in part. Since approximately 85% of H-1 visa holders are located in either the Los Angeles or Manhattan districts, we will consider the appointment of alien compliance coordinators in these two districts. These individuals would act as local coordinators and liaisons with the National Office. The program targets compliance at a relatively small number of aliens who are given H-1 visas each year (about 50,000). Many Collection programs with far higher volumes function without the designation of local coordinators. The low volume of aliens holding H-1 visas (especially those that are artists, athletes or entertainers) in the other districts would not appear to warrant local coordinators.

International's Nonresident Alien Entertainer Program Coordinator is presently in liaison with all districts regarding this program as established in Part V of the Internal Revenue Manual. In addition, the Assistant Commissioner (International) has agreed that the Nonresident Alien Entertainer Program Coordinator will also serve as the National Office contact to provide technical advice and respond to district inquiries regarding all matters pertaining to nonresident alien programs in the future. Finally, we will monitor the volume of H-1 leads on a continuing basis to ensure that the placement of alien compliance coordinators as determined, remain sufficient to meet with any increases or shifting of H-1 inventories within the districts.

Recommendation 5:

Review and revise, as appropriate, the text of the withholding agent contact letter (Letter 1142(DO)) to bring it into conformity with current IRS forms and information.

Comment:

We fully agree with this recommendation and have already begun the process to revise this letter.

*U.S. G.P.O. 1988-201-749:80047

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