
TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION



***Fiscal Year 2006 Statutory Audit of
Compliance With Legal Guidelines
Prohibiting the Use of Illegal Tax Protester
and Similar Designations***

July 13, 2006

Reference Number: 2006-40-098

This report has cleared the Treasury Inspector General for Tax Administration disclosure review process and information determined to be restricted from public release has been redacted from this document.

Redaction Legend:

1 = Tax Return/Return Information

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TREASURY INSPECTOR GENERAL
FOR TAX ADMINISTRATION

DEPARTMENT OF THE TREASURY

WASHINGTON, D.C. 20220

July 13, 2006

MEMORANDUM FOR DEPUTY COMMISSIONER FOR SERVICES AND
ENFORCEMENT
DEPUTY COMMISSIONER FOR OPERATIONS SUPPORT

Michael R. Phillips

FROM:

Michael R. Phillips
Deputy Inspector General for Audit

SUBJECT:

Final Audit Report – Fiscal Year 2006 Statutory Audit of Compliance
With Legal Guidelines Prohibiting the Use of Illegal Tax Protester and
Similar Designations (Audit # 200540039)

This report presents the results of our review to determine whether the Internal Revenue Service (IRS) complied with IRS Restructuring and Reform Act of 1998 (RRA 98)¹ Section (§) 3707 and internal IRS guidelines that prohibit IRS officers and employees from referring to taxpayers as Illegal Tax Protesters (ITP) or any similar designations.

Synopsis

Prior to enactment of the RRA 98, taxpayers could be designated as ITPs if their tax returns or correspondence contained specific indicators of noncompliance with the tax law, such as the use of arguments that had been repeatedly rejected by the courts. Once a taxpayer's account was coded with an ITP indicator, certain tax enforcement actions were accelerated. The designation was also intended to alert IRS employees to be cautious so they would not be drawn into confrontations with taxpayers.

RRA 98 § 3707 prohibits the IRS from using the ITP or any similar designations. The Treasury Inspector General for Tax Administration is required to annually evaluate IRS compliance with this prohibition on the use of ITP or any similar designations.²

¹ Pub. L. No. 105-206, 112 Stat. 685 (codified as amended in scattered sections of 2 U.S.C., 5 U.S.C. app., 16 U.S.C., 19 U.S.C., 22 U.S.C., 23 U.S.C., 26 U.S.C., 31 U.S.C., 38 U.S.C., and 49 U.S.C.).

² Internal Revenue Code § 7803(d)(1)(A)(v) (2000 Suppl. 2).



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The IRS has not reintroduced past ITP codes on the Master File,³ and formerly coded ITP taxpayer accounts have not been assigned similar Master File designations. In addition, the IRS does not have any current publications with ITP references and has initiated actions to remove the one remaining ITP reference from the various formats of the Internal Revenue Manual.⁴ However, in 287 instances, IRS employees referred to taxpayers as ITPs or other similar designations in case narratives.

In 287 instances, IRS employees referred to taxpayers as ITPs and similar designations in case narratives, which other IRS employees may view as negative during subsequent contacts with taxpayers.

In our Fiscal Year 2002 report, we noted that IRS employees were still using ITP or similar designations in their case narratives, and recommended that IRS management reinforce that taxpayers should not be referred to as ITPs or similar designations and consult with its Office of Chief Counsel on the use of these designations. In August 2002, the IRS responded that it requested guidance from its Office of Chief Counsel regarding the designations. Once guidance was received, the IRS planned to issue a memorandum to all employees reinforcing the importance of not referring to taxpayers as ITPs. However, the IRS' Office of Chief Counsel did not agree that employee use of ITP or similar designations in case narratives were potential violations of the RRA 98 § 3707. As such, we are in disagreement with IRS management over this issue and we will continue to report these instances of IRS employees using ITP or similar designations in their case narratives. We have consistently advised Department of the Treasury management of our concern over IRS management's position on this matter.

We continue to believe that using the ITP or other similar designations in case narratives may stigmatize taxpayers and may cause IRS employee bias in future contacts with these taxpayers. Electronic case narratives are available to other IRS employees for future reference and may impact the opinions and the actions of employees working the taxpayers' cases.

Recommendation

We recommended IRS management issue a memorandum to all employees to reinforce that taxpayers are not to be referred to as "tax protesters," "ITPs," "constitutionally challenged," or any other similar designations.

³ The Master File is the IRS database that stores various types of taxpayer account information. This database includes individual, business, and employee plans and exempt organizations data.

⁴ The Internal Revenue Manual is the manual containing the IRS' internal guidelines.



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Response

IRS management will issue a memorandum to all employees to reinforce compliance with RRA 98 § 3707. In addition, they stated they would work with Treasury Inspector General for Tax Administration management to reconcile differences regarding the IRS' legal guidance and take actions as appropriate.

In their general discussion of our report, IRS management also stated the following:

You identified 130 cases in which IRS employees used the term "tax protestor" or similar designation because taxpayers described themselves as such. Although you did not consider these history references to be violations, and noted that no taxpayer rights were violated, you were concerned that these references could stigmatize these taxpayers in future contacts with the IRS.

Management's complete response to the draft report is included as Appendix VI.

Office of Audit Comment

We are concerned that the IRS response misinterprets the issue we reported. As we stated in our report, we did not include any instances of employees only documenting statements made by a taxpayer and/or his or her representative. The 130 instances we noted did not relate to taxpayers' self-descriptions, but rather to case narratives in which employees made references about the taxpayers' actions (e.g., taxpayer sent letters containing "typical protester language" or responded with "protester jargon," etc.). While we believe this practice should be discouraged, we did not take exception to these instances because making references to a taxpayer's actions does not necessarily constitute a designation prohibited by this statutory provision.

Our primary concern is with 287 instances in which employees had referred to taxpayers as "tax protesters," "ITPs," "constitutionally challenged," or other similar designations in case narratives. We believe these references in case narratives are prohibited by RRA 98 § 3707. Our recommendation was to address this concern.

We are also concerned about IRS management's delay in resolving the issue related to its legal guidance on RRA 98 § 3707. We advised IRS and Department of the Treasury management in April 2006, well in advance of the issuance of our final report, so that the resolution could be properly noted in this report. We believe this issue must be resolved before the IRS can provide appropriate guidance to its employees to reinforce compliance with RRA 98 § 3707.

Copies of this report are also being sent to the IRS managers affected by the report recommendation. Please contact me at (202) 622-6510 if you have questions or Michael E. McKenney, Assistant Inspector General for Audit (Wage and Investment Income Programs), at (202) 622-5916.



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Background

The Internal Revenue Service (IRS) Restructuring and Reform Act of 1998 (RRA 98)¹ Section (§) 3707 prohibits the IRS from using the Illegal Tax Protester (ITP) or any similar designations. In addition, the RRA 98 requires the removal of all existing ITP codes from the IRS Master File² and instructs IRS employees to disregard any such designation not located on the Individual Master File.³

Prior to enactment of the RRA 98, the IRS had the ITP Program to identify individuals and businesses using methods that were not legally valid to protest the tax laws. IRS employees identified taxpayers for referral to the ITP Program when their tax returns or correspondence contained specific indicators of noncompliance with the tax law, such as the use of arguments that had been repeatedly rejected by the courts. There were IRS tax protester coordinators who were responsible for determining whether a taxpayer should be included in the ITP Program. If a taxpayer was classified as an ITP, the taxpayer's record was coded as such on the IRS' Master File. Once a taxpayer's account was coded as an ITP, certain tax enforcement actions were accelerated. The designation was also intended to alert IRS employees to be cautious so they would not be drawn into confrontations with taxpayers.

Congress was concerned that some taxpayers were being permanently labeled and stigmatized by the ITP designation. There were many instances of taxpayers who subsequently complied with the tax laws but continued to be labeled as ITPs. The concern was that this label could bias IRS employees and result in unfair treatment.

The RRA 98⁴ requires the Treasury Inspector General for Tax Administration (TIGTA) to annually evaluate IRS compliance with the prohibition against using the ITP or any similar designations. This is our eighth review since Fiscal Year (FY) 1999. These reviews have identified areas for improvement to help the IRS comply with the ITP designation prohibition.

***The TIGTA is required to
annually evaluate IRS
compliance with the prohibition
against using the ITP or any
similar designations.***

This review was performed in the Appeals function, Criminal Investigation function, National Taxpayer Advocate function, and Office of Chief Counsel in Washington, D.C.; the Small

¹ Pub. L. No. 105-206, 112 Stat. 685 (codified as amended in scattered sections of 2 U.S.C., 5 U.S.C. app., 16 U.S.C., 19 U.S.C., 22 U.S.C., 23 U.S.C., 26 U.S.C., 31 U.S.C., 38 U.S.C., and 49 U.S.C.).

² The Master File is the IRS database that stores various types of taxpayer account information. This database includes individual, business, and employee plans and exempt organizations data.

³ This is the IRS database that maintains transactions or records of individual tax accounts.

⁴ RRA 98 added Internal Revenue Code § 7803(d)(1)(A)(v)(2000 Suppl. 2).



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Business/Self-Employed (SB/SE) Division in New Carrollton, Maryland; and the Wage and Investment Division in Atlanta, Georgia, during the period August 2005 through February 2006. The audit was conducted in accordance with *Government Auditing Standards*. Detailed information on our audit objective, scope, and methodology is presented in Appendix I. Major contributors to the report are listed in Appendix II.



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Results of Review

Illegal Tax Protester Codes Were Not Used on the Master File

Prior to the RRA 98, the IRS used ITP codes on the Master File to accelerate collection activity for taxpayers who were delinquent in filing tax returns or paying their taxes. These codes were also intended to alert IRS employees that there might be problems encountered when dealing with these types of taxpayers.

Congress was concerned about the use of the ITP designation because:

- Taxpayers were labeled as ITPs without regard to their filing obligations or compliance.
- ITP indicators were not always reversed when taxpayers became compliant with their tax obligations.

RRA 98 § 3707 required the IRS to remove the existing ITP designations from taxpayers' accounts on the Master File beginning January 1, 1999.

In prior reviews, we reported the IRS had removed the ITP codes from the Master File as required by the RRA 98. Based on our analysis of approximately 1.2 million taxpayer accounts coded for accelerated collection activity, the IRS has not reintroduced these ITP designation codes on the Master File. RRA 98 § 3707 also prohibits using any designation similar to the ITP. We reviewed the approximately 57,000 taxpayer accounts formerly coded as ITPs on the Master File and confirmed that the IRS had not input any other Master File designations similar to the ITP on these accounts.

Internal Revenue Service Publications Do Not Contain Illegal Tax Protester References

To help promote compliance with RRA 98 § 3707, IRS management issued directives for employees to update various publications to eliminate references to ITP terminology and programs. The TIGTA reviews prior to FY 2002 identified several publications that contained ITP references. When notified of the problem, the IRS had either revised the publication or labeled it as being obsolete. Our review of available



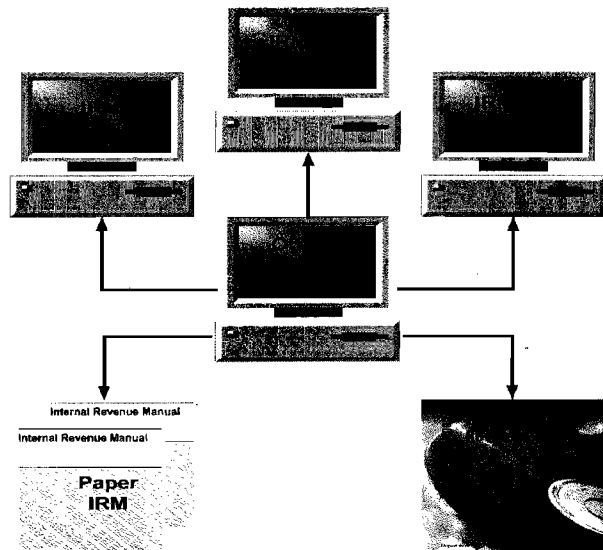


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IRS publications on the Servicewide Electronic Research Program (SERP),⁵ the IRS public Internet web site, the IRS' Electronic Publishing web site, and the IRS 2004 Federal Tax Products CD-ROM did not identify any current ITP references. By eliminating the ITP references from IRS forms, documents, letters, and training materials, the IRS prevents employees from using or following these outdated references or guidelines.

The Internal Revenue Service Has Initiated Steps to Remove Illegal Tax Protester References From the Internal Revenue Manual

In each of our seven prior reviews, we identified ITP references in multiple subsections throughout the various formats of the Internal Revenue Manual (IRM).⁶ The IRM is maintained in various electronic and manual formats, such as the Official IRM on the IRS' Electronic Publishing web site, the IRM online, the IRM on the SERP, the IRM on IRS.gov, the IRM on CD-ROM, and the paper IRM. The graphic to the right shows the relationship between the Official IRM and the various formats of the IRM available to IRS employees.



During our FY 2005 review, we reported there were 19 unique ITP references throughout the various formats of the IRM.⁷ In response to our last report, the IRS stated it had initiated actions to remove these remaining ITP references from the IRM.

In our current review, we still found one unique ITP reference throughout the various formats of the IRM. This reference was previously identified and brought to the attention of SB/SE Division management during our last audit.⁸ We have been told by SB/SE Division Compliance Policy management that as of October 1, 2005, this reference has been removed from the SB/SE Division version of the IRM. However, due to delays in publishing, the Official IRM and all other subsidiary IRMs have not yet been updated.

⁵ The SERP is an electronic researching tool containing many former paper research applications (e.g., publications, the IRM, the Probe and Response Guide, etc.).

⁶ The IRM is the manual containing the IRS' internal guidelines.

⁷ *Fiscal Year 2005 Statutory Audit of Compliance With Legal Guidelines Prohibiting the Use of Illegal Tax Protester and Similar Designations* (Reference Number 2005-40-104, dated July 2005).

⁸ This reference was identified during our FY 2005 review because a portion of the IRM was changed from a picture format into a text format.



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Removing all ITP references from the various formats of the IRM helps to avoid any inappropriate implication that the use of this label is permitted. Based on the actions taken by the IRS, we believe no further recommendations are warranted at this time.

In Some Instances, Employees Used Illegal Tax Protester or Similar Designations in Case Narratives

We found 287 instances in which 242 employees had referred to taxpayers as “tax protesters,” “ITPs,” “constitutionally challenged,” or other similar designations in case narratives on the following computer systems we sampled.

- Appeals Centralized Database System (ACDS):⁹ A review of 179,572 Appeals narrative comment records identified 4 cases in which 4 employees used similar designations when referring to specific taxpayers in their case narratives.
- Automated Collection System (ACS):¹⁰ A review of approximately 2.6 million open ACS cases identified 21 cases in which 18 employees used the ITP or similar designations when referring to specific taxpayers in their case narratives.
- Criminal Investigation Management Information System (CIMIS):¹¹ A review of 10,076 open and 13,836 closed cases identified 7 cases in which 7 employees used similar designations when referring to specific taxpayers in their case narratives.
- Integrated Collection System (ICS):¹² A review of approximately 452,000 open ICS cases identified 253 cases in which 211 employees used the ITP or similar designations when referring to specific taxpayers in their case narratives.
- Taxpayer Advocate Management Information System (TAMIS):¹³ A review of 41,920 open TAMIS cases identified 2 cases in which 2 employees used the ITP or similar designations when referring to specific taxpayers in their case narratives.¹⁴

We believe these references are prohibited by RRA 98 § 3707. Examples of the inappropriate comments can be found in Appendix V. The following chart contains the number of ITP or

⁹ The ACDS is a computerized system used to track case receipts, record case time, document case actions, and monitor the progress of the Appeals function workload.

¹⁰ The ACS is a telephone contact system through which telephone assistants collect unpaid taxes and secure tax returns from delinquent taxpayers who have not complied with previous notices.

¹¹ The CIMIS is a management tool used to track the status and progress of criminal investigations.

¹² The ICS is a computerized system used by Collection function employees to report taxpayer case time and activity.

¹³ The TAMIS is an electronic database and inventory control system used by Taxpayer Advocate Service employees.

¹⁴ Due to some anomalies in the TAMIS records provided to TIGTA by the IRS, any of our conclusions or opinions based on these data are qualified. More information on this qualification can be found in Appendix I.



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similar designations identified in computer system case narratives during our FYs 2005 and 2006 reviews.

**Figure 1: Illegal Tax Protester and
Similar Designations in Case Narratives**

Computer System	Fiscal Year 2005			Fiscal Year 2006		
	Employees Involved	Protester Designation Used	Similar Designation Used	Employees Involved	Protester Designation Used	Similar Designation Used
ACDS	1	1	1	1	1	1
ACS						
CIMIS						
ICS						
TAMIS						
TOTALS	237	133	136	242	119	168

Source: Case narratives found on various IRS computer systems and the TIGTA report entitled *Fiscal Year 2005 Statutory Audit of Compliance With Legal Guidelines Prohibiting the Use of Illegal Tax Protester and Similar Designations* (Reference Number 2005-40-104, dated July 2005).

We also identified 130 case narratives in which employees made references about the taxpayers' actions (e.g., taxpayer sent letters containing "typical protester language," the taxpayer responded with "protester jargon," etc.). We agree with the IRS that merely making references to a taxpayer's actions does not constitute a designation prohibited by statute. However, we are concerned these references could become, or be considered, permanent labels that could subsequently stigmatize taxpayers in future contacts with the IRS. We did not include any instances in which employees were only documenting statements made by a taxpayer and/or his or her representative. Quoting a taxpayer's self-designation as an ITP is not prohibited by RRA 98 § 3707.

In our FY 2002 report, we noted that IRS employees were still using ITP or similar designations in their case narratives and recommended IRS management reinforce that taxpayers should not be referred to as ITPs or similar designations and consult with its Office of Chief Counsel on the use of these designations. In August 2002, the IRS responded that it requested guidance from its Office of Chief Counsel regarding the designations. Once guidance was received, the IRS planned to issue a memorandum to all employees reinforcing the importance of not referring to taxpayers as ITPs. However, the IRS' Office of Chief Counsel did not agree that employee use of ITP or similar designations in case narratives was a potential violation of the RRA 98 § 3707. We are in disagreement with IRS management over this issue, and we will continue to report



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these instances of IRS employees using ITP or similar designations in their case narratives. We have consistently advised Department of the Treasury management of our concern over IRS managements' position on this matter. Treasury officials have discussed this matter with the IRS but have not yet reached a resolution.

Despite its disagreement with our position on the matter, the IRS has taken some actions to prevent the ITP and similar designations from being used in case narratives. On October 11, 2002, the IRS issued a SERP alert¹⁵ reminding employees of the prohibition regarding the use of ITP or any similar designations in case narratives. Some business units continue to remind employees of the prohibition regarding the use of the ITP or any similar designations. For example, the Wage and Investment Division conducts periodic quality reviews for ITP use in its ACS function and counsels employees who designate taxpayers as ITPs or other similar designations. In addition, the SB/SE Division issued a SERP alert on May 6, 2005, reminding the employees in its ACS and other compliance service functions to refrain from using the ITP or any similar designations in case narratives.

The statute states that officers and employees of the IRS shall not designate taxpayers as ITPs or any similar designations. It further specified that existing designations in the Master File must be removed and any other designations made before the effective date of the statute, such as those on paper records that have been archived, must be disregarded. The Senate Committee Report (S. Rep. No. 105-174) related to the RRA 98 § 3707 provision stated the Senate Committee was concerned that taxpayers might be stigmatized by a designation as an "illegal tax protester." Based upon the language of the statute and the Senate Committee Report, we believe IRS officers and employees should not label taxpayers as ITPs or similar designations in any IRS records, which include paper and electronic case files. IRS officers and employees should not designate taxpayers as such because a designation alone contains a negative connotation and appears to label the taxpayer. Given the continued use of these terms by IRS employees, we believe the IRS should reinforce to all its employees the importance of not referring to taxpayers as ITPs or similar designations.

Recommendation

Recommendation 1: IRS management should issue a memorandum to all employees to reinforce that taxpayers are not to be referred to as "tax protesters," "ITPs," "constitutionally challenged" or any other similar designations.

Management's Response: IRS management will issue a memorandum to all employees to reinforce compliance with RRA 98 § 3707. In addition, they stated that they would work with TIGTA management to reconcile differences regarding the IRS' legal guidance and take actions as appropriate.

¹⁵ Only those employees that use the SERP would have had access to this alert.



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Office of Audit Comment: We are concerned about IRS management's delay in resolving the issue related to its legal guidance on RRA 98 § 3707. We advised both IRS and Department of the Treasury management in April 2006, well in advance of the issuance of our final report, so that the resolution could be properly noted in this report. We believe this issue must be resolved before the IRS can provide appropriate guidance to its employees to reinforce compliance with RRA 98 § 3707.



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Appendix I

Detailed Objective, Scope, and Methodology

The objective of this review was to determine whether the Internal Revenue Service (IRS) complied with IRS Restructuring and Reform Act of 1998 (RRA 98)¹ Section (§) 3707 and internal IRS guidelines that prohibit IRS officers and employees from referring to taxpayers as Illegal Tax Protesters (ITP) or any similar designations. The Treasury Inspector General for Tax Administration is required to annually evaluate compliance with the prohibition against using the ITP or any similar designations.² Unless otherwise noted, our limited tests of the reliability of data obtained from various IRS systems did not identify any errors. To accomplish this objective, we:

- I. Determined if the ITP coding on the IRS Master File³ was removed by reviewing all Accelerated Issuance Codes (Transaction Code 148) as of September 2005 for Business Master File (BMF)⁴ records and Individual Master File (IMF)⁵ records. We analyzed 179,203 BMF records and 1,033,668 IMF records containing a Transaction Code 148 on the account.

We also compared our historic computer extract of approximately 57,000 taxpayers designated as ITPs before the RRA 98 was enacted to our BMF and IMF records with an Accelerated Issuance Code (Transaction Code 148) to determine if any new common codes were being used to classify the taxpayers as ITPs.

- II. Determined if the IRS Internal Revenue Manual (IRM)⁶ contained the ITP or any similar designations by performing key word searches of the Official IRM on the IRS' Electronic Publishing web site, the IRM online, the IRM on the Servicewide Electronic Research Program (SERP),⁷ the IRM on IRS.gov, the IRM on CD-ROM, and the paper IRM through November 2005. In addition, we determined if the Chief Counsel Directives Manual located on the IRS Office of Chief Counsel web site contained the ITP or any

¹ Pub. L. No. 105-206, 112 Stat. 685 (codified as amended in scattered sections of 2 U.S.C., 5 U.S.C. app., 16 U.S.C., 19 U.S.C., 22 U.S.C., 23 U.S.C., 26 U.S.C., 31 U.S.C., 38 U.S.C., and 49 U.S.C.).

² Internal Revenue Code § 7803(d)(1)(A)(v) (2000 Suppl. 2).

³ The Master File is the IRS database that stores various types of taxpayer account information. This database includes individual, business, and employee plans and exempt organizations data.

⁴ The BMF is the IRS database that consists of Federal tax-related transactions and accounts for businesses. These include employment taxes, income taxes on businesses, and excise taxes.

⁵ The IMF is the IRS database that maintains transactions or records of individual tax accounts.

⁶ The IRM is the manual containing the IRS' internal guidelines.

⁷ The SERP is an electronic researching tool containing many former paper research applications (e.g., publications, the IRM, the Probe and Response Guide, etc.).



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similar designations by performing key word searches in January 2006. We specifically searched for corrections to the exceptions identified in our Fiscal Year 2005 report⁸ and determined if there were any new references.

- III. Determined if IRS publications still contained the ITP or any similar designations by performing key word searches of the SERP, IRS.gov, and the IRS Electronic Publishing web site in September 2005 and the IRS 2004 Federal Tax Products CD-ROM in October 2005.
- IV. Determined if employees were using the ITP or any similar designations within taxpayer case narratives on the IRS Integrated Collection System (ICS)⁹ by securing a copy of the ICS database and analyzing approximately 452,000 open ICS cases open as of September 2005 from a database with history action dates between October 2004 and September 2005.
- V. Determined if employees were using the ITP or any similar designations within taxpayer case narratives on the IRS Automated Collection System (ACS)¹⁰ by securing a copy of the ACS database¹¹ and analyzing 2,646,923 ACS cases open as of September 2005 with history action dates between October 2004 and September 2005.
- VI. Determined if employees were using the ITP or any similar designations within taxpayer case narratives on the IRS Taxpayer Advocate Management Information System (TAMIS)¹² by securing a copy of the TAMIS database and analyzing 41,920 open TAMIS cases with activity between October 2004 and September 2005.

During our limited validation of the TAMIS data, we found some anomalies in the records provided to us. While we are confident that we received all of the requested TAMIS records, text information in some of the data is missing. In discussions with the TAMIS programmers, these anomalies could not be easily corrected within the timeframes of our review. As a result, any Treasury Inspector General for Tax Administration conclusions/opinions based on these data are qualified.

⁸ *Fiscal Year 2005 Statutory Audit of Compliance With Legal Guidelines Prohibiting the Use of Illegal Tax Protester and Similar Designations* (Reference Number 2005-40-104, dated July 2005).

⁹ The ICS is a system used by Collection function employees to report taxpayer case time and activity.

¹⁰ The ACS is a telephone contact system through which telephone assistants collect unpaid taxes and secure tax returns from delinquent taxpayers who have not complied with previous notices.

¹¹ The ACS database did not always contain employee identifying information to determine the number of employees using an ITP or similar designation. We assumed that each comment was made by a different employee.

¹² The TAMIS is an electronic database and inventory control system used by Taxpayer Advocate Service employees.



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- VII. Determined if employees were using the ITP or any similar designations within taxpayer case narratives on the IRS Appeals Centralized Database System¹³ by securing a copy of the database¹⁴ and analyzing 179,572 Appeals narrative comment records dated between October 2004 and September 2005.
- VIII. Determined if employees were using the ITP or any similar designations within taxpayer case narratives on the IRS Criminal Investigation Management Information System¹⁵ by securing a copy of the database¹⁶ and analyzing 10,076 cases opened and 13,836 cases closed between October 2004 and September 2005.

¹³ A computerized system used to track case receipts, record case time, document case actions, and monitor the progress of the Appeals function workload.

¹⁴ The Appeals Centralized Database did not contain employee identifying information to determine the number of employees using an ITP or similar designation. We assumed that each comment was made by a different employee.

¹⁵ A management tool used to track the status and progress of criminal investigations.

¹⁶ The open Criminal Investigation Management Information System database did not contain employee identifying information to determine the number of employees using an ITP or similar designation. We assumed that each comment was made by a different employee.



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Appendix II

Major Contributors to This Report

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Appendix III

Report Distribution List

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GAO/TIGTA Liaison, National Taxpayer Advocate TA
Senior Operations Advisor, Wage and Investment Division SE:W:S



***Fiscal Year 2006 Statutory Audit of Compliance
With Legal Guidelines Prohibiting the Use of
Illegal Tax Protester and Similar Designations***

Appendix IV

Outcome Measures

This appendix presents detailed information on the measurable impact that our recommended corrective action will have on tax administration. These benefits will be incorporated into our Semiannual Report to Congress.

Type and Value of Outcome Measure:

- Taxpayer Rights and Entitlements – Actual; 287 taxpayers potentially affected (see page 5).

Methodology Used to Measure the Reported Benefit:

We reviewed the following:

- From the Appeals Centralized Database System¹ – a total of 179,572 Appeals narrative comment records dated between October 2004 and September 2005 and identified 4 case narratives that contained similar designations.
- From the Automated Collection System² – approximately 2.6 million cases open as of September 2005 from a database with history action dates between October 2004 and September 2005 and identified 21 taxpayer case narratives that contained Illegal Tax Protester (ITP) or a similar designation.
- From the Criminal Investigation Management Information System³ – a total of 10,076 cases opened and 13,836 cases closed between October 2004 and September 2005 and identified 7 taxpayer case narratives that contained similar designations.
- From the Integrated Collection System⁴ – approximately 452,000 open Integrated Collection System cases as of September 2005 from a database with history action dates between October 2004 and September 2005 and identified 253 taxpayer case narratives that contained the ITP or a similar designation.

¹ A computerized system used to track case receipts, record case time, document case actions, and monitor the progress of the Appeals function workload.

² A telephone contact system through which telephone assistants collect unpaid taxes and secure tax returns from delinquent taxpayers who have not complied with previous notices.

³ A management tool used to track the status and progress of criminal investigations.

⁴ A system used by Collection function employees to report taxpayer case time and activity.



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- From the Taxpayer Advocate Management Information System⁵ – a total of 41,920 open cases with activity between October 2004 and September 2005 and identified 2 taxpayer case narratives that contained the ITP or a similar designation.

Type and Value of Outcome Measure:

- Reliability of Information – Actual; one unique ITP reference throughout the various formats of the Internal Revenue Manual (IRM) (see page 4).

Methodology Used to Measure the Reported Benefit:

As of November 2005, we searched the various formats of the IRM available to Internal Revenue Service (IRS) employees for ITP references. The one unique ITP reference was found on the Official IRM on the IRS' Electronic Publishing web site, the IRM online, the IRM on the Servicewide Electronic Research Program,⁶ the IRM on IRS.gov, the IRM on CD-ROM, and the paper IRM. This reference was identified and brought to the attention of IRS management during our previous audit.⁷

⁵ An electronic database and inventory control system used by Taxpayer Advocate Service employees.

⁶ An electronic researching tool containing many former paper research applications (e.g., publications, the IRM, the Probe and Response Guide, etc.).

⁷ This reference was identified during our Fiscal Year 2005 review because a portion of the IRM was changed from a picture format into a text format.



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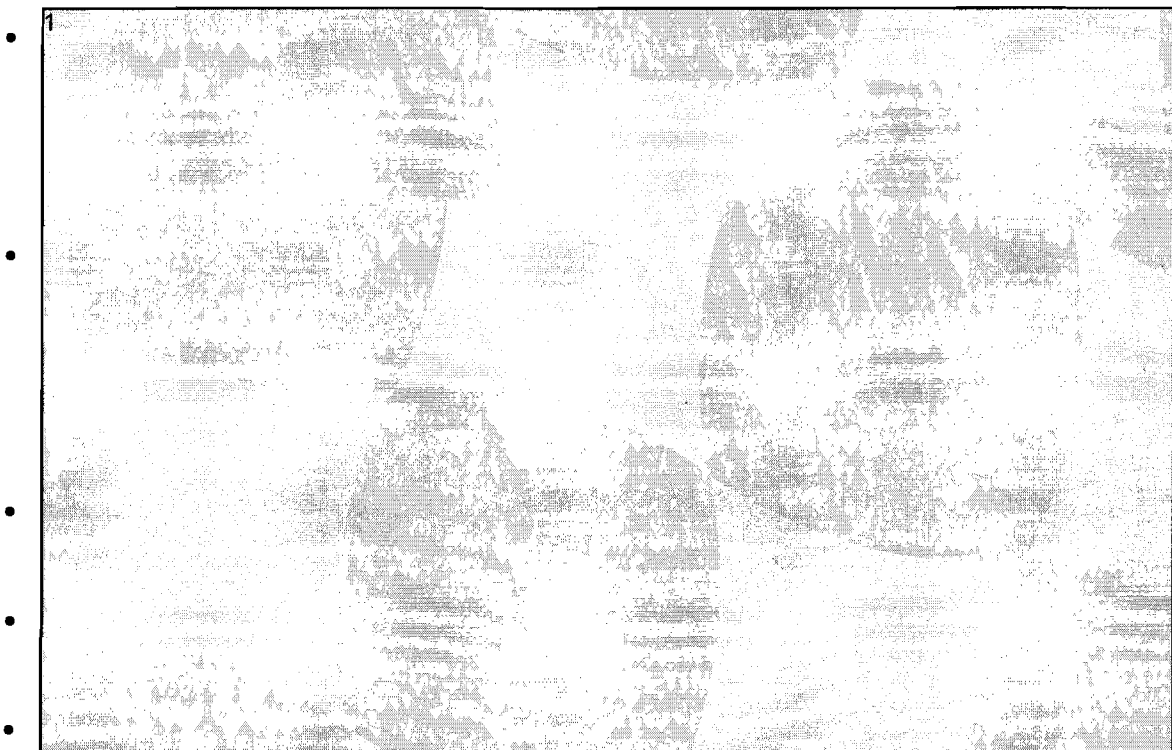
Appendix V

**Examples of Illegal Tax Protester and Similar
Designations Found in Case Narratives**

During our Fiscal Year 2006 review, we searched for the following words and abbreviations to identify Illegal Tax Protester (ITP) and other similar designations being used by Internal Revenue Service employees in their case narratives. We did not take exception to employee comments quoting a taxpayer's self-designation as an ITP.

• CHALLENGE	• CHLLNG	• CNSTTTNL	• CONGRESSIONAL
• CONSTITUTIONAL	• ITP	• OBJECTOR	• PROTESTER
• PROTESTOR	• PROTESTR	• PROTSTR	• PRTSTR

The following comments made by employees are a few examples of the ITP and similar designations found in Internal Revenue Service employees' case narratives.





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Appendix VI

Management's Response to the Draft Report



DEPUTY COMMISSIONER

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

June 5, 2006

RECEIVED
JUN 05 2006

MEMORANDUM FOR DEPUTY INSPECTOR GENERAL FOR AUDIT

FROM:


Mark E. Matthews
Deputy Commissioner for Services and Enforcement

SUBJECT:

Draft Audit Report – Fiscal Year 2006 Statutory Audit of
Compliance With Legal Guidelines Prohibiting the Use of Illegal
Tax Protester and Similar Designations (Audit 200540039)

We have reviewed your report and appreciate your acknowledgement of our ongoing efforts to comply with Section 3707 of the Internal Revenue Restructuring and Reform Act of 1998 (RRA '98). We have taken significant actions to comply with this code section to ensure we protect the rights of all taxpayers, including those with constitutional or philosophical objections to the tax system. As you note in the report, we have removed all Illegal Tax Protestor (ITP) codes from the Master File and such references from current publications and the Internal Revenue Manual (IRM).

You identified 130 cases in which IRS employees used the term "tax protestor" or similar designation because taxpayers described themselves as such. Although you did not consider these history references to be violations, and noted that no taxpayer rights were violated, you were concerned that these references could stigmatize these taxpayers in future contacts with the IRS.

The following is our response to your recommendation.

RECOMMENDATION 1

IRS management should issue a memorandum to all employees to reinforce that taxpayers are not to be referred to as "tax protesters", "ITPs", constitutionally challenged", or by any other similar designations.

CORRECTIVE ACTION

We will issue a memorandum to all employees to reinforce compliance with Section 3707 of RRA '98. In addition, we will work with TIGTA management to reconcile differences regarding our legal guidance and take actions as appropriate.

IMPLEMENTATION DATE

June 15, 2007



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RESPONSIBLE OFFICIAL

The Director, Collection Policy, SB/SE Division

CORRECTIVE ACTION MONITORING PLAN

The Director, Collection Policy, SB/SE Division, will advise the SB/SE Commissioner of any delays in implementing this corrective action.

If you have any questions, please call Kevin Brown, Commissioner, SB/SE Division at (202) 622-0600 or Fred Schindler, Director, Collection Policy, SB/SE Division, at (202) 283-7650.