



Treasury Inspector General for Tax Administration Office of Audit

THE FUEL EXCISE TAX COMPLIANCE PROGRAM HAS MADE SIGNIFICANT PROGRESS, BUT PROGRAM IMPROVEMENTS ARE NEEDED TO INCREASE HIGHWAY TRUST FUND REVENUE

Issued on March 30, 2009

Highlights

Highlights of Report Number: 2009-20-051 to the Internal Revenue Service Commissioner, Small Business/Self-Employed Division.

IMPACT ON TAXPAYERS

The Internal Revenue Service (IRS) has made significant progress in improving motor fuel excise tax compliance. The IRS has implemented electronic filing requirements for excise tax reporting documents and, through its examination process, assessed almost \$135 million in additional taxes through April 2008. However, improvements are needed in the areas of compliance and penalty program effectiveness, properly transferring payments to the Highway Trust Fund, measuring program results, and submitting required reports. Improvements in these areas will improve the effectiveness of the Excise Files Information Retrieval System (ExFIRS) Compliance Program and reduce motor fuel excise tax evasion.

WHY TIGTA DID THE AUDIT

This audit was initiated to determine whether the ExFIRS has been effectively implemented to enhance tax enforcement activities and increase Highway Trust Fund revenue. Since Fiscal Year 1999, Congress has appropriated almost \$160 million to the IRS from the Highway Trust Fund for ExFIRS development and compliance efforts. Motor fuel excise tax receipts total \$30 billion to \$40 billion annually and account for more than 90 percent of Highway Trust Fund receipts. Motor fuel excise tax evasion is estimated to be from \$1 billion annually to as much as 25 percent of total revenues, per the Federal Highway Administration web site.

WHAT TIGTA FOUND

The IRS has taken actions to improve the ExFIRS Compliance Program and address concerns identified in a prior TIGTA audit report. These actions include increasing outreach initiatives to improve awareness of electronic filing requirements and developing strategies aimed at understanding areas of noncompliance.

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While significant actions have been taken, additional improvements are needed to ensure a more effective ExFIRS Compliance Program. Foremost, the IRS needs to work with the Federal Highway Administration to develop a more accurate and current estimate of the potential motor fuel excise tax compliance gap. This estimate is necessary to ensure program resources are effectively focused on identified tax gap areas and to measure the effectiveness of the ExFIRS Compliance Program.

Since Fiscal Year 2006, the IRS identified more than 12,000 tax periods associated with potentially noncompliant terminal operators. The IRS can assess penalties of \$10,000 for each tax period that terminal operators fail to file timely or accurate information. While the IRS has become more consistent in applying penalties when appropriate, a significant portion of the \$120 million in potential penalties could still be assessed. In addition, the penalties that have been collected were not properly handled. The IRS collected approximately \$1.7 million in penalty assessments as of September 10, 2008, but the funds were not transferred to the Highway Trust Fund.

Improvements to the program measures used to evaluate the ExFIRS Compliance Program are also needed. In addition, TIGTA found that reported ExFIRS compliance-related information is not fully representative of program results or timely submitted to the Department of Transportation.

WHAT TIGTA RECOMMENDED

TIGTA recommended that the Commissioner, Small Business/Self-Employed Division, ensure that information reporting at the refineries is implemented; the amount of the motor fuel excise tax gap and the compliance rate is validated; the penalty for failure to file timely and accurate information documents is applied consistently to all taxpayers; funds collected from the assessment of ExFIRS compliance-related penalties are transferred to the Highway Trust Fund; performance measures and outcomes are developed and used to assess program effectiveness in improving fuel tax compliance; and the annual status reports are enhanced and issued by September 30 as required.

In their response to the report, IRS management agreed with or agreed in principle with eight recommendations, disagreed with two recommendations, and questioned the outcome measures contained in the audit report. The IRS stated it has taken or plans to take many corrective actions. After considering the IRS' comments, TIGTA maintains that the outcome measures in the report are valid.

READ THE FULL REPORT

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

<http://www.treas.gov/tigta/auditreports/2009reports/200920051fr.pdf>

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