



Treasury Inspector General for Tax Administration Office of Audit

FISCAL YEAR 2009 STATUTORY REVIEW OF RESTRICTIONS ON DIRECTLY CONTACTING TAXPAYERS

Issued on March 24, 2009

Highlights

Highlights of Report Number: 2009-30-054 to the Internal Revenue Service Commissioner for Small Business/Self-Employed Division.

IMPACT ON TAXPAYERS

The Omnibus Taxpayer Bill of Rights created a number of safeguards to protect taxpayers being interviewed by an Internal Revenue Service (IRS) employee as part of an examination or investigation. IRS employees are required by Internal Revenue Code Sections (I.R.C. §§ 7521(b)(2) and (c) to:

- Stop an interview if the taxpayer requests to consult with a representative.
- Obtain their immediate supervisor's approval to contact the taxpayer instead of the representative if the representative is responsible for unreasonably delaying the completion of an examination or collection action.

A taxpayer can file a civil suit against the IRS if an IRS employee intentionally disregards these provisions by denying a taxpayer the right to appropriate representation.

WHY TIGTA DID THE AUDIT

This audit was initiated because TIGTA is required to annually report on the IRS' compliance with I.R.C. §§ 7521(b)(2) and (c).

The IRS Restructuring and Reform Act of 1998 required the IRS to revise *Your Rights as a Taxpayer* (Publication 1) to inform taxpayers of their rights to 1) be represented at interviews and 2) suspend an interview pursuant to I.R.C. § 7521(b)(2). *Senate Committee on Finance Report 105-174* (dated April 22, 1998) stated that Congress believes taxpayers should be more fully informed of their rights to representation in dealing with the IRS and those rights should be respected.

WHAT TIGTA FOUND

The IRS has informed taxpayers of their rights related to I.R.C. §§ 7521(b)(2) and (c) through various publications. However, between October 2007 and September 2008, six complaint/investigation cases closed by the Treasury Inspector General for Tax Administration Office of Investigations found that IRS employees improperly bypassed taxpayer representatives and were either counseled or reprimanded for their actions.

The six substantiated complaint/investigation cases closed during Fiscal Year 2008 are very small compared to the millions of taxpayer contacts IRS examiners and collectors make each year. However, neither TIGTA nor the IRS can provide assurances that there were not other potential direct contact violations. IRS management information systems do not separately record or monitor cases that involve direct contact issues, and there is no legal requirement to do so.

The Internal Revenue Manual (IRM) provides IRS employees with directions and explanations of the statutory and administrative procedures to follow in their day-to-day contacts with taxpayers and their representatives. However, the IRS could take better advantage of group manager review processes to ensure Examination function employees are properly following the direct contact provisions.

Currently, there is no requirement in the IRM that specifically requires Examination function group managers to address direct contact issues during reviews even though such reviews are a key control component that ensures procedures are followed and work is meeting acceptable standards. The requirement would also be consistent with IRM guidance for Collection function group manager reviews. Most importantly, perhaps, the documentation from the reviews could provide needed support to provide greater assurances that Examination function employees are following the direct contact provisions in their day-to-day contact with taxpayers and their representatives.

WHAT TIGTA RECOMMENDED

TIGTA recommended that the Commissioner, Small Business/Self-Employed Division, update the IRM to include specific guidance for Examination function group managers to ensure that requirements mandated by I.R.C. §§ 7521(b)(2) and (c) are understood and followed by their employees. In their response to the report, IRS officials agreed with our recommendation and plan to update IRM Section 1.4.40 to include specific guidance for Examination function group managers.

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/200930054fr.pdf>

Email Address: inquiries@tigta.treas.gov
Web Site: <http://www.tigta.gov>

Phone Number: 202-622-6500