



Treasury Inspector General for Tax Administration Office of Audit

INDIAN TRIBAL NONCOMPLIANCE WITH THE BANK SECRECY ACT IS EFFECTIVELY IDENTIFIED AND ADDRESSED, BUT IMPROVEMENTS CAN BE MADE

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Highlights

Highlights of Report Number: 2008-10-140 to the Internal Revenue Service Commissioners for the Small Business/Self-Employed Division and the Tax Exempt and Government Entities Division.

IMPACT ON TAXPAYERS

The Bank Secrecy Act requires certain businesses to submit reports of large-dollar cash transactions for use by law enforcement agencies in identifying terrorist funding, money laundering, and other illegal activity. The Internal Revenue Service (IRS) is effective at identifying and addressing Bank Secrecy Act noncompliance in the \$25 billion per year Indian tribal gaming industry. However, improvements could further assure that tribal noncompliance can be addressed through enforcement action to deter future criminal activities and identify Indian tribes with the highest risk of noncompliance.

WHY TIGTA DID THE AUDIT

IRS examinations have regularly encountered weak internal control practices on the part of nontaxable entities, including Indian tribal casinos. These weaknesses can result in tribal casinos being used as accommodating parties to enable money laundering to occur because tribal entities, as sovereign governments, are not required to file income tax returns to report income. The Financial Crimes Enforcement Network has overall authority for enforcement of the Bank Secrecy Act and recently reported that Bank Secrecy Act documents were used to trace millions of dollars of organized crime-controlled sports-betting proceeds through casinos. TIGTA conducted the audit to determine whether the IRS effectively identified and addressed Indian tribal entities that are potentially not compliant with the Bank Secrecy Act.

WHAT TIGTA FOUND

The IRS has been effective in identifying and addressing Indian tribal entities that are not compliant with the Bank Secrecy Act. The IRS corrects indications of noncompliance by providing increased educational

contacts, pursuing unfiled information reports during educational contacts and examinations, and referring cases with willful noncompliance for development and prosecution. Cases not accepted for further development and prosecution can be forwarded to the Financial Crimes Enforcement Network for potential penalty assessment when appropriate. Examinations of all 286 tribal entities required to comply with the Bank Secrecy Act have not been performed. However, the IRS had identified noncompliance in 34 (97 percent) of the 35 closed examinations TIGTA reviewed.

Improvements could further assure that tribal noncompliance can be detected and acted upon. For example:

- Entities are primarily selected for examination from a prioritized list based on a risk analysis. Feedback on the effectiveness of the risk analysis is infrequently provided and only addresses individual cases. Further feedback was limited because the database used to record the population of tribal entities required to comply with the Bank Secrecy Act and data on Bank Secrecy Act examinations contained incomplete and inaccurate information.
- There is no structured feedback process requiring the Fraud/Bank Secrecy Act function to advise the Indian Tribal Governments office as to why entities were selected for examination or to provide the actual results of examinations. Sharing this information could help the IRS improve the risk assessment process to focus on issues with greater impact.

WHAT TIGTA RECOMMENDED

TIGTA recommended that the Director, Fraud/Bank Secrecy Act, ensure that 1) the Fraud/Bank Secrecy Act database is complete and accurate, and 2) feedback is provided to the Indian Tribal Governments office about why Indian tribal entities were selected for examination and instances when a case is closed without an examination.

In their response to the report, IRS management agreed with the recommendations and provided planned actions to address them.

READ THE FULL REPORT

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

<http://www.treas.gov/tigta/auditreports/2008reports/200810140fr.pdf>.

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

Phone Number: 202-622-6500