



## Treasury Inspector General for Tax Administration

### **WHILE DOCUMENTATION WAS NOT AVAILABLE TO FULLY ASSESS THE RETURN PREPARER PROGRAM, IDENTIFICATION AND PROCESSING OF PREPARER PENALTIES CAN BE IMPROVED**

Issued on July 29, 2008

## Highlights

Highlights of Report Number: 2008-30-147 to the Internal Revenue Service Commissioner for the Small Business/Self-Employed Division.

### **IMPACT ON TAXPAYERS**

One action the Internal Revenue Service (IRS) uses to try to correct unscrupulous preparer behavior is assessing penalties against preparers of inaccurate tax returns. In Tax Year 2005, tax return preparers were used for almost 60 percent of all individual tax returns filed. However, TIGTA was unable to review a sufficient number of examination files to assess the Return Preparer Program because many of the files requested were not provided. Tax and penalty assessments might not be sustained when the IRS cannot obtain the workpapers to identify the basis for the assessment if the taxpayer or preparer files an appeal or claim. This would result in unfair treatment of taxpayers who file accurate tax returns.

### **WHY TIGTA DID THE AUDIT**

The Internal Revenue Code provides for various sanctions to be used against unscrupulous preparers of tax returns, including preparer penalties. This audit was initiated to determine whether the Return Preparer Program is effectively managed and penalties are appropriate. This audit was included in the TIGTA Fiscal Year 2007 Annual Audit Plan.

### **WHAT TIGTA FOUND**

TIGTA was unable to fully assess the Return Preparer Program because the IRS could not provide 59 percent of the examination cases and 80 percent of the preparer penalty cases requested for this review. As a result, TIGTA was able to review just 17 examination cases and 10 penalty cases.

Although TIGTA was unable to assess the overall effectiveness of the Program, some conditions present in the sample cases reviewed warrant management's attention. Penalties were not pursued in 3 of 17 examinations that had apparent preparer violations.

*Email Address:* [inquiries@tigta.treas.gov](mailto:inquiries@tigta.treas.gov)

*Web Site:* <http://www.tigta.gov>

In 8 of the 17 examinations, the workpapers did not include required documentation that a preparer penalty case was not warranted. When preparer penalty cases are not adequately considered or opened, preparer misconduct might not be identified and penalized, and management might not have the information necessary to identify patterns of noncompliance and initiate Program Action Cases.

While TIGTA believes that preparer penalties were warranted in the 10 penalty cases reviewed, 8 cases did not appear to have been reviewed by the Return Preparer Coordinator, and 3 cases included inappropriate comments about the preparer that could indicate that the preparer might be subject to a penalty investigation.

TIGTA also reviewed 30 Program Action Cases in 2 Area Offices. The cases in one office did not include logs of activity or key events. Activity logs help provide for more efficient use of resources when the cases are reassigned or subject to review.

### **WHAT TIGTA RECOMMENDED**

TIGTA recommended that the Director, Examination, Small Business/Self-Employed Division, 1) ensure that quality review data relating to preparer penalties are analyzed to determine the extent of instances when preparer penalties are not considered and asserted and take necessary corrective action, 2) remind examiners about the importance of keeping preparer penalty information separate from client examination workpapers, and 3) ensure that all Area Offices adopt a means of documenting key events for each Program Action Case.

In their response to the report, IRS officials agreed with the recommendations. The Director, Examination, Small Business/Self-Employed Division, plans to ensure that 1) an analysis of quality review data relating to preparer penalties is conducted to determine the extent of instances where preparer penalties are not considered and asserted and take appropriate corrective actions, 2) a reminder is issued to examiners regarding the importance of separating preparer penalty information from client examination workpapers, and 3) all Area Directors provide confirmation that their Return Preparer Coordinators are following procedures for documenting key events for each Program Action Case.

### **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/200830147fr.pdf>.

*Phone Number:* 202-622-6500