Despite Spending Nearly $380 Million, the Internal Revenue Service Is Still Not Prepared to Enforce Compliance With the Foreign Account Tax Compliance Act

July 5, 2018

Reference Number: 2018-30-040

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DESPITE SPENDING NEARLY $380 MILLION, THE INTERNAL REVENUE SERVICE IS STILL NOT PREPARED TO ENFORCE COMPLIANCE WITH THE FOREIGN ACCOUNT TAX COMPLIANCE ACT

Highlights

Final Report issued on July 5, 2018

Highlights of Reference Number: 2018-30-040 to the Commissioner of Internal Revenue.

IMPACT ON TAXPAYERS

The U.S. Congress intended the Foreign Account Tax Compliance Act (FATCA) to improve U.S. taxpayer compliance with reporting foreign financial assets and offshore accounts. Under the FATCA, individual taxpayers with specified foreign financial assets that meet a certain dollar threshold should report this information to the IRS, beginning with Tax Year 2011, by filing Form 8938, *Statement of Specified Foreign Financial Assets*, with their income tax return.

To avoid being subject to withholding, the FATCA also requires foreign financial institutions (FFI) to register and agree to report to the IRS certain information about financial accounts held by U.S. taxpayers or held by foreign entities in which U.S. taxpayers hold a substantial ownership interest.

WHY TIGTA DID THE AUDIT

This audit was initiated to evaluate the IRS's efforts to ensure that taxpayers, the FFIs, and withholding agents comply with the FATCA.

WHAT TIGTA FOUND

TIGTA determined that, despite spending nearly $380 million, the IRS has taken limited or no action on a majority of the planned activities outlined in the FATCA Compliance Roadmap.

The reports filed by the FFIs did not include (or included invalid) Taxpayer Identification Numbers (TIN). As a result, the IRS's efforts to match FFI and individual taxpayer data were unsuccessful, which affected the IRS's ability to identify and enforce FATCA requirements for individual taxpayers.

Also, the IRS only recently initiated action to enforce withholding agent compliance with the FATCA after TIGTA provided feedback. TIGTA observed that a significant percentage of the Forms 1042-S, *Foreign Person's U.S. Source Income Subject to Withholding*, the IRS receives that pertain to the FATCA do not have valid TINs. However, most Form 1099 series information returns pertaining to the FATCA do have valid TINs and can be used by the IRS in its FATCA compliance strategies. There were 62,398 Tax Year 2015 Forms 1042-S with invalid TINs reporting more than $717 million, of which just over $47 million was withheld.

WHAT TIGTA RECOMMENDED

TIGTA recommended that the IRS: 1) establish follow-up procedures and initiate action to address error notices related to file submissions rejected by the ICMM; 2) initiate compliance efforts to address taxpayers who did not file a Form 8938 but who were reported on a Form 8966 filed by an FFI; 3) add guidance to the Form 8938 instructions to inform taxpayers on how to use the FFI List Search and Download Tool on the IRS's website; 4) initiate compliance efforts to address and correct missing or invalid TINs on Form 8966 filings by non-IGA FFIs and Model 2 IGA FFIs; 5) expand compliance efforts to address and correct the invalid TINs on all Form 1042-S filings by non-IGA FFIs and Model 2 IGA FFIs; and 6) initiate compliance efforts to compare Form 1099 filings with valid TINs to corresponding Form 8938 filings.

The IRS agreed with four of TIGTA's six recommendations. Corrective actions include: 1) establishing follow-up procedures and initiating action on error notices with the FFIs; 2) continuing efforts to systemically match Form 8966 and Form 8938 data to identify nonfilers and underreporting related to U.S. holders of foreign accounts and to the FFIs; 3) informing taxpayers how to obtain global intermediary numbers; and 4) strengthening overall compliance efforts directed toward improving the accuracy of reporting by Form 1042-S filers.

TREASURY INSPECTOR GENERAL
FOR TAX ADMINISTRATION

DEPARTMENT OF THE TREASURY

WASHINGTON, D.C. 20220

1

July 5, 2018

MEMORANDUM FOR COMMISSIONER OF INTERNAL REVENUE

FROM: Michael E. McKenney
Deputy Inspector General for Audit

SUBJECT: Final Audit Report – Despite Spending Nearly $380 Million, the Internal Revenue Service Is Still Not Prepared to Enforce Compliance With the Foreign Account Tax Compliance Act (Audit # 201730029)

This report presents the results of our review to evaluate the Internal Revenue Service's (IRS) efforts to ensure that taxpayers, foreign financial institutions, and withholding agents comply with the Foreign Account Tax Compliance Act.[1] This review was conducted as part of our Fiscal Year 2018 Annual Audit Plan and addresses the IRS's major management challenge of the Impact of Global Economy on Tax Administration.

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

Copies of this report are also being sent to the IRS managers affected by the report recommendations. If you have any questions, please contact me or Matthew A. Weir, Assistant Inspector General for Audit (Compliance and Enforcement Operations).

[1] Pub. L. No. 111-147, 124 Stat. 71 (2010).

Table of Contents

Abbreviations

FATCA	Foreign Account Tax Compliance Act
FFI	Foreign Financial Institution
FY	Fiscal Year
HCTA	Host Country Tax Authority
ICMM	International Compliance Management Model
IDES	International Data Exchange Service
IGA	Intergovernmental Agreement
IRS	Internal Revenue Service
PFFI	Participating Foreign Financial Institution
TIGTA	Treasury Inspector General for Tax Administration
TIN	Taxpayer Identification Number
TY	Tax Year

Background

As an offset provision[1] in the Hiring Incentives to Restore Employment Act of 2010,[2] Congress added Chapter 4 Sections (§§) 1471–1474 and § 6038D to the Internal Revenue Code, commonly referred to as the Foreign Account Tax Compliance Act (FATCA).[3] Congress intended the FATCA to improve U.S. taxpayer compliance with reporting foreign financial assets and offshore accounts. The purpose of the FATCA was to identify noncompliance by U.S. taxpayers using undisclosed foreign accounts and foreign assets.

When the law was passed in March 2010, the Congressional Joint Committee on Taxation estimated that revenue from the FATCA's offset provision would be $8.7 billion from Fiscal Years (FY) 2010 to 2020. According to the Committee's projections, the FATCA should have already generated approximately $4.8 billion in tax revenues by the end of FY 2016.

Prior to the FATCA, the United States had many tax information exchange agreements with other countries to help prevent the use of foreign accounts to facilitate tax evasion. These agreements also required treaty partners to provide certain information to the Internal Revenue Service (IRS). However, the FATCA goes much further, requiring foreign financial institutions (FFIs) to report even more detailed information to the IRS about their U.S. customers on an annual basis. As a result, the FATCA is an important development in U.S. efforts to improve tax compliance involving foreign financial assets, including offshore accounts held by U.S. taxpayers. The FATCA legislation establishes obligations on the following three groups: individual taxpayers, the FFIs, and withholding agents.

Individual Taxpayers – The FATCA requirement for individual taxpayers to report specified foreign financial assets to the IRS is established under Internal Revenue Code § 6038D.[4] Individual taxpayers are required to file Form 8938, *Statement of Specified Foreign Financial Assets*, with their income tax returns if the aggregate value of their foreign financial assets exceed certain dollar thresholds.[5]

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[1] See Appendix VII for a glossary of terms.
[2] Pub. L. No. 111-147, 124 Stat. 71 (2010).
[3] Pub. L. No. 111-147, Subtitle A, 124 Stat 97 (2010) (codified in scattered sections of 26 U.S.C.).
[4] The legislation states that a specified person means specified individual or specified domestic entity. However, the IRS did not issue regulations until March 2016 that require a domestic entity to file Form 8938 if the entity is formed or used to hold specified foreign financial assets and the total asset value exceeds the appropriate reporting threshold. The reporting requirement for domestic entities applies to tax years beginning after December 31, 2015. Therefore, only specified individuals were required to report specified foreign financial assets before that date. For purposes of this report, individual taxpayer is used instead of specified person.
[5] The foreign financial asset value as calculated on the last day of the tax year or at any time during the tax year.

Reporting thresholds vary based on filing status and where the taxpayer resides. Figure 1 shows the specified foreign financial asset dollar thresholds by type of filer based on where the taxpayer resides.

Figure 1: Specified Foreign Financial Asset Dollar Thresholds to Be Reported to the IRS on Form 8938 by Type of Filer and Where the Taxpayer Resides

Type of Taxpayer	Asset Value Last Day of Tax Year Exceeds	Or Asset Value Any Time During Tax Year Exceeds
If Living in the United States		
Unmarried or Married Filing Separately	$50,000	$75,000
Married Filing Jointly	$100,000	$150,000
If Living Outside of the United States		
Unmarried or Married Filing Separately	$200,000	$300,000
Married Filing Jointly	$400,000	$600,000

Source: Form 8938 instructions for Tax Year (TY) 2016.

Specified foreign financial assets include financial accounts maintained by an FFI; stocks, securities, financial instruments, and contracts issued by a person other than a U.S. person; and any interest in a foreign entity. Specifically:

- ***For a foreign financial account***, individual taxpayers are required to report the name and address of the financial institution in which the financial account is maintained as well as the account number.
- ***For any stock or security***, the name and address of the non-U.S. issuer, as well as information necessary to identify the class or issue of which the stock or security is a part, must be reported.
- ***For any other financial instrument, contract, or interest in a foreign entity***, the names and addresses of all issuers, counterparties, and foreign entities must be reported, together with the information necessary to identify the instrument, contract, or interest.

The maximum value of each specified foreign financial asset during the taxable year must also be reported. The IRS began accepting Form 8938 filings from individual filers in January 2012 for TY 2011.[6]

The FFIs – Under the FATCA, to avoid being subject to a 30 percent withholding rate on U.S. source payments made to them, certain FFIs must register with and agree to report to the IRS

[6] Form 8938 filings for domestic entities started for tax years beginning after December 31, 2015.

certain information about their accounts owned by U.S. taxpayers, including the accounts of foreign entities in which U.S. taxpayers hold a substantial ownership interest.[7]

The first list of the FFIs that registered to participate in the FATCA Program was released by the IRS in June 2014 and contained more than 77,000 entities.[8] As of November 1, 2017, the list of approved participating entities has increased to 293,020.

Intergovernmental Agreements (IGAs) **–** Due to jurisdictional privacy laws that prevent some FFIs from reporting account information directly to the IRS, the U.S. Department of the Treasury has negotiated IGAs with many foreign governments. The IGAs establish an alternative framework for implementing the FATCA while removing legal impediments to reporting account information. The IGAs include a provision for the FFIs to report directly to the IRS or through their host country tax authority (HCTA) to the IRS.

There are two IGAs, Model 1 and Model 2, which have been designed for foreign governments to enter into with the U.S. Government. As of December 19, 2017, there were 99 Model 1 IGAs and 14 Model 2 IGAs.

- For a Model 1 IGA, an FFI will report U.S.-related account information to its HCTA, which in turn will automatically provide the information to the IRS.[9]
- For a Model 2 IGA, an FFI will be directed to comply with the requirements of an FFI agreement and will report U.S.-related account information directly to the IRS in a manner consistent with FATCA regulations.

One of the reporting requirements of participating FFIs (PFFIs) is met by electronically filing Form 8966, *FATCA Report*, annually with the IRS.[10] In general, information required to be reported includes the name, address, and Taxpayer Identification Number (TIN) of each accountholder who is a specified U.S. person; the account number; the account balance or value; and the gross receipts and gross withdrawals or payments from the account. The IRS began accepting Forms 8966 in January 2015. The deadline for non-IGA PFFIs, Reporting Model 2 FFIs, and direct-reporting nonfinancial foreign entities to file the first information reports with

[7] Certain nonfinancial foreign entities also may have a reporting requirement under the FATCA. They may elect to register and report directly to the IRS.
[8] Entities are assigned a unique 19-character Global Intermediary Identification Number to identify to withholding agents and the IRS that they are registered and approved.
[9] Model 1 IGAs can be either reciprocal or nonreciprocal. Under a nonreciprocal Model 1 IGA, the HCTA will provide to the IRS certain information about foreign financial accounts held by U.S. taxpayers. Under a reciprocal Model 1 IGA, the HCTA will provide to the IRS certain information about foreign financial accounts held by U.S. taxpayers, and the IRS will provide certain information about U.S. financial accounts held by foreign taxpayers to the HCTA.
[10] The FFIs can elect to be subject to the same reporting as U.S. financial institutions. In this case, the FFI would file the appropriate Form 1099, *e.g.*, 1099-DIV, *Dividends and Distributions*; 1099-INT, *Interest Income*; 1099-MISC, *Miscellaneous Income*, in lieu of Form 8966.

respect to TY 2014 was June 29, 2015.[11] The deadline for receiving information reporting from the HCTAs in Model 1 IGA jurisdictions for TY 2014 was September 30, 2015.

Withholding Agents – Under the FATCA, withholding agents are required to withhold 30 percent on payments of U.S. source income to:

- Non-PFFIs and nonfinancial foreign entities.
- Any accountholder of a PFFI that fails to provide:
  - The information required to determine whether the account is a U.S. account.
  - The information required to be reported by the FFI.
  - A waiver of a foreign law that would prevent reporting to the IRS.[12]

Withholding agents report payments and amounts withheld on Form 1042, *Annual Withholding Tax Return for U.S. Source Income of Foreign Persons*, and Form 1042-S, *Foreign Person's U.S. Source Income Subject to Withholding*. The information required to be reported includes the name, address, TIN, and Chapter 4 status (applicability of FATCA withholding) of each payee; the gross amount paid; the tax withheld; and the identifying information of the withholding agent. Withholding on U.S. fixed, determinable, annual, or periodical payments to FFIs, nonfinancial foreign entities, and direct accountholders of PFFIs began on July 1, 2014. In addition, the FFIs and withholding agents were required to file Forms 1042-S with respect to withholding during TY 2014 by March 16, 2015.

This review was performed with information obtained from Large Business and International Division offices located in Hartford, Connecticut; Washington D.C.; Downers Grove, Illinois; Brooklyn Center, Minnesota; and New York, New York, during the period February through December 2017. We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective. Detailed information on our audit objective, scope, and methodology is presented in Appendix I. Major contributors to the report are listed in Appendix II.

[11] The usual deadline is March 31 each year, but for TY 2014 only, there was an automatic 90-day extension that did not require the taxpayer to take additional action. Also, certain Model 2 IGAs have a usual deadline of January 31 per the terms of the negotiated IGA.

[12] The U.S. source income rules are contained in Internal Revenue Code §§ 861–865. Income tax treaties can sometimes modify these rules.

Results of Review

Limited or No Action Has Been Taken on a Majority of the Planned Activities Outlined in the FATCA Compliance Roadmap

Although the FATCA was enacted in March 2010, the IRS noted that the most current version of the FATCA Compliance Roadmap was last updated in January 2016. The purpose of the Roadmap is to document compliance planning involving FATCA data and to provide a baseline for future compliance planning and implementation activities across the IRS.

In our prior review of the IRS's implementation of the FATCA,[13] we reported that the IRS experienced delays in implementing its compliance strategy and that it anticipated that some of the estimated implementation dates may change due to the availability and accessibility of FATCA data and budget limitations, *e.g.*, information technology funding and human resources funding. During this review, we determined that the IRS continues to experience delays in implementing its FATCA compliance strategy.

Since the passage of the Hiring Incentives to Restore Employment Act, the IRS has spent approximately $380 million to implement and administer the FATCA Program. Figure 2 identifies the costs incurred from FYs 2010 through 2017.[14]

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[13] Treasury Inspector General for Tax Administration, Ref. No. 2015-30-085, *The Internal Revenue Service Has Made Progress in Implementing the Foreign Account Tax Compliance Act* (Sept. 2015).

[14] To fully disclose the total planned information technology costs of the FATCA Program, the IRS noted that $18.8 million in funds have been obligated, but not yet expensed, and are therefore not presented in the yearly totals.

Figure 2: FYs 2010 to 2017 Information Technology Costs and Other Costs for the FATCA Program[15]

FY	Information Technology Costs	Other Costs	Total Cost
2010	$0	$0	$0
2011	$0	$0	$0
2012	$5,621,706	$2,555,349	$8,177,055
2013	$8,220,878	$19,333,563	$27,554,441
2014	$20,718,121	$12,907,503	$33,625,624
2015	$69,432,007	$41,523,816	$110,955,823
2016	$61,697,344	$40,148,808	$101,846,152
2017	$56,448,757	$41,165,953	$97,614,710
Total	**$222,138,813**	**$157,634,992**	**$379,773,805**

Source: Large Business and International Division, Withholding and International Individual Compliance function.

Despite the costs incurred to date, the IRS has taken partial, limited, or no action on 24 of the 31 compliance activity templates. Figure 3 shows the status of the 31 compliance activity templates outlined in the Roadmap.

Figure 3: Status of FATCA Compliance Roadmap Activity Templates

FATCA Compliance Roadmap	Compliance Activity Templates	Delays of One to Two Years
Action Taken	6	3
Partial Action Taken	2	2
Limited Action Taken	16	15
No Action Taken	6	6
N/A (Action Not Yet Required)	1	N/A
Total	**31**	**26**

Source: Treasury Inspector General for Tax Administration (TIGTA) analysis of January 2015 Roadmap, January 2016 Roadmap, and information provided by the IRS.

[15] The IRS did not identify any costs incurred during FYs 2010 or 2011.

The 31 compliance activity templates primarily address three main compliance factors, which include taxpayer compliance, FFI compliance, and withholding and refund compliance. Examples include comparing Form 8938 filings to corresponding Forms 8966 and 1099 filings to identify mismatches in reporting of foreign financial assets, ensuring that Form 8966 information has been properly collected and reported, and analyzing withholding agent compliance using the transcribed recipient copy of Form 1042-S and the withholding agent copy of Form 1042-S. Appendix V provides summary information on the IRS's planned actions, actions taken, and the status of each compliance activity template.

Of the 31 activities, the IRS indicated that it has taken action on 24 activities. However, for 16 of those 24 activities, we observed that action was either limited or in the early stages of development. In addition, we identified delays of one to two years in implementing 20 of the 24 activities, 10 of which are still experiencing delays from being fully implemented. The IRS has not taken any action on six of the 31 activities, and we identified delays for those six activities of one to two years so far. No action is required yet for the one remaining activity.

As a result, the IRS is not taking appropriate enforcement action on FATCA compliance activities or measuring its performance. The cause of the delays identified by the IRS include a lack of automated processes, the need for development and implementation of additional system requirements, the prioritization of FATCA work by the Information Technology organization, the timing of regulatory deadlines, the lack of data to verify compliance, and the categorization of activities as low risk and low priority in terms of IRS operations. Additionally, there was no separate appropriation for the implementation of the FATCA, which required the IRS to divert nearly $380 million to implement the FATCA from its other enforcement and operation support activities.

The length of time needed for issuance of FATCA regulations also delayed completing Roadmap activities. Specifically, the initial regulations were issued in January 2013. However, the Department of the Treasury and the IRS received numerous comments in response to the initial regulations. As a result, updated final and temporary regulations were issued in March 2014, which also included text of the proposed regulations. Additionally, proposed regulations were finalized in January 2017.

Foreign Financial Institutions Continue to Submit Incorrect Data

The files received by the IRS from the FFIs containing Form 8966 records are processed first through the International Data Exchange Service (IDES) and then through the International Compliance Management Model (ICMM). These systems perform automated scans for improper encryption and improper electronic reporting format. The IDES will reject a file that has issues such as improper encryption, improper compression, or a virus. Files that are not rejected by the IDES are sent to the ICMM for additional scanning. The ICMM will reject a file that has issues such as failed decryption, an invalid Form 8966 XML schema reporting format,[16] an invalid digital certificate, a failed virus scan, and validation errors caused by missing data.[17]

The IRS noted that 17,588 file submissions were rejected by the IDES as of October 22, 2017, due to issues such as failed encryption, an invalid compressed file, and failed virus checks. The IRS also noted that, as of September 30, 2017, an additional 35,629 file submissions were rejected by the ICMM due to issues such as failed decryption and an invalid Form 8966 XML schema reporting format.

Alerts and notifications are issued for every file submission received. If file-level errors are identified by the IDES or the ICMM, they are explained on the related alert or notification. An alert, issued by the IDES, will contain a general description of the cause for file rejection. A notification, issued by the ICMM, will provide an overview of the error, the cause for file rejection, and the potential resolution. The FFIs have 120 days from the date an alert or notification was sent to resolve the issues that caused the IDES or the ICMM to reject the file.

Aside from issuing an alert or notification, the IRS typically does not conduct any further follow-up action with the FFIs regarding rejected files. One particular exception is that the IRS does follow up when a file submitted by a Model 1 IGA country is rejected. In those instances, the IRS sends a follow-up letter at the 60-day mark and maintains communication with the HCTA until all errors, or substantially all errors (those that are required to be fixed), are corrected. Although not currently in place, IRS management indicated that they are in the process of creating a follow-up procedure for file-level error notices with respect to Model 2 IGA FFIs and non-IGA FFIs.

In addition, if filers have questions regarding an alert or notification that a file submission was rejected, they can contact the IDES helpdesk or the IRS to get more specific information about what went wrong and how to correct the error. However, the IRS does not have a system that accurately identifies the number of FFIs it assisted with resolving their file-level errors. Also, the IRS does not have the capability to determine whether a subsequent file submission is a corrected version of a prior rejected file submission. Because rejected files are deleted, the IRS would be unable to make a comparison of the data.

After a file successfully passes through the IDES and the ICMM file-level processing, the ICMM tests about 100 different Form 8966 data elements/fields at the record level. If a data element categorized as mandatory is missing (not populated or blank), such as name of filer, filer's identifying number, *e.g.*, Global Intermediary Identification Number, name of account holder,

[16] A file with the XML file extension is an Extensible Markup Language file. They are plain text files that do not do anything in and of themselves except describe the transportation, structure, and storage of data.
[17] Data elements categorized as validation include the accountholder's name, account number, and account balance. Note that if one data element categorized as validation is missing on one record, the ICMM will reject the entire file of records submitted by the FFI.

accountholder's TIN, *etc.*, the ICMM will handle the condition as a record-level error.[18] In this instance, the ICMM will accept the file and issue a notification to the filer with information regarding any records in which mandatory data elements failed as a record level-error.

IRS data show that as of September 30, 2017, it had received a total of 150,132 files into the ICMM that contained 10.2 million records. Each record represents a separate Form 8966. The IRS noted that the 10.2 million records received included:

- New Forms 8966.
- Resubmitted Forms 8966 as:
  - Corrections.
  - Amendments.
  - Voids.

Figure 4 shows the status and count of new Forms 8966 received as of September 2017.

Figure 4: Status and Count of New Forms 8966 Received as of September 2017[19]

Status	Count	Percentage
Passed	6,275,851	72 %
Failed	2,484,753	28 %
Total	8,760,604	100 %
Failed Validations		
Resolved	188,506	7.6 %
Unresolved	2,296,247	92.4 %
Total	2,484,753	100.0 %

Source: Counts provided by the Large Business and International Division, Data Solutions function.

The IRS noted that not all record-level errors will be resolved. Regarding the 2.3 million records with unresolved errors, the IRS indicated that 292,847 of the records with errors did not need to

[18] A record-level error does not include if an account holder's TIN is invalid.
[19] New Form 8966 Receipts represent Forms 8966 received for the first time.

be resolved.[20] Records with the "TIN Not Populated" error are not required to be acted upon by the FFIs due to the transition period in which the IRS took limited action to enforce compliance,[21] as well as provisions in Model 1 IGAs that the FFIs were not required to obtain and report the TINs related to preexisting accounts. The transition period and Model 1 IGA provisions are described in more detail in the next section of this report.

As previously stated, the ICMM issues one notification for every file submission received. If the filer does not respond and resolve the record-level errors identified on the notification within 120 days, it is the responsibility of IRS compliance functions to follow up for a response. *2*
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The IRS sends notifications to the FFIs regarding potential errors but has not taken any other compliance actions. ********************2**************************************
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*************************************2**************************the IRS does follow up when a file submitted by a Model 1 IGA country contains records with errors. As noted previously, in those instances, the IRS sends a follow-up letter at the 60-day mark and maintains communication with the HCTA until all errors, or substantially all errors (those that are required to be fixed), are corrected. Although not currently in place, IRS management indicated that they are in the process of creating a follow-up procedure for record-level error notices with respect to Model 2 IGA FFIs and non-IGA FFIs.

The IRS does not have a tracking system that accurately captures the number of FFIs it assisted with resolving record-level errors. The IRS indicated that it assisted FFIs with resolving numerous record-level errors. However, of the 188,506 records that were resolved, the IRS could not specifically identify how many were resolved as a result of its assistance.

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[20] Of the 2,296,247 records with unresolved errors, 1,106,090 did not have an accountholder's TIN. Of the 1,106,090 records that did not have a TIN: 813,243 also had other record-level errors such as name of filer, filer's identifying number, name of accountholder, *etc.* that needed to be addressed by the FFIs; and 292,847 only had a TIN missing record-level error and no action was necessary by the FFIs.

[21] During the transition period for Calendar Years 2014 and 2015, the IRS would send notifications to the FFIs regarding errors with the data they submitted. However, there was no other type of compliance action to enforce filing of data or requiring correction of data errors.

Recommendation

The Commissioner, Large Business and International Division, should:

Recommendation 1***:*** Establish follow-up procedures and initiate action to address error notices related to file submissions rejected by the ICMM to ensure that non-IGA FFIs and Model 2 IGA FFIs submit FATCA reports properly and to address unresolved record-level errors to ensure that the FFIs correctly provide data for mandatory fields.

> ***Management's Response:*** The IRS agreed with this recommendation and will establish a compliance initiative to address error notices and unresolved record-level errors, including follow-up procedures, to improve the accuracy of data in FATCA reports.

Reports Filed by Foreign Financial Institutions Did Not Include (or Included Invalid) Taxpayer Identification Numbers

As of November 1, 2017, there were 293,020 FFIs registered and approved to participate in the FATCA Program. As of September 30, 2017, the IRS noted that it had received at least one Form 8966 from or on behalf of 104,692 registered FFIs. Although the IRS has not received a Form 8966 from or on behalf of the remaining 188,328 registered FFIs, there are circumstances in which a registered FFI is not required to file.[22]

The IRS should be able to identify the FFIs that are not filing Forms 8966 when required by comparing Form 8966 data filed by the FFIs and Form 8938 data filed by taxpayers. However, the IRS's efforts to match information between these forms have been significantly hindered, primarily due to the absence of TINs on a high volume of Forms 8966. As noted previously, and as shown in Figure 5, the IRS had received 150,132 files as of September 30, 2017.

Figure 5: Count of FFI Files Received[23]

Calendar Year	2015	2016	2017	Total
Files Received	36,123	55,450	58,559	**150,132**

Source: Counts provided by the Large Business and International Division, Data Solutions function.

[22] Circumstances in which registered FFIs are not required to file a Form 8966 include when they do not have any accounts with U.S. accountholders or when the aggregate value of all depository accounts held, in whole or in part, by individual U.S. accountholders does not exceed $50,000 as of the end of the calendar year.
[23] Calendar Year 2017 results do not represent a complete calendar year.

As noted previously in Figure 4, these files contained 8,760,604 new Form 8966 records. Of those, more than 4.3 million records either did not have a TIN or had an invalid TIN.[24] Of the approximately 8.8 million new records the IRS received from or on behalf of participating FFIs as of September 30, 2017, as shown in Figure 6, the IRS has been able to match only ***********************************2************************************ *********************2********************. IRS management acknowledged that they have only taken limited action related to the matched and unmatched records, and noted that they have not taken any compliance action.

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************2**********	***2***	***2***	***2***	***2***

Source: Counts provided by the Large Business and International Division, Data Solutions function.

When the IRS receives a Form 8966 that does not include a TIN, it is identified by the ICMM as a record-level error, and a notification is issued to the FFI.[26] However, Calendar Years 2014 and 2015 were regarded as a transition period for purposes of IRS enforcement and administration with respect to the implementation of the FATCA by withholding agents, the FFIs, and other entities with Chapter 4 (FATCA) responsibilities. As a result, the IRS did not treat a missing TIN as an error during the transition period, and the FFIs were not required to act upon missing TIN errors.

In addition to the transition period, Model 1 IGA FFIs were not required to obtain and report the TINs related to preexisting U.S.-owned accounts if the U.S. accountholder's TIN was not in the records of the reporting FFI. Model 1 IGA jurisdictions were required to establish rules requiring the FFIs to obtain the U.S. TIN of each specified U.S. accountholder by January 1, 2017, for reporting with respect to TY 2017 and subsequent years. However, in September 2017, the Department of the Treasury and the IRS noted that some reporting Model 1 IGA FFIs needed additional time to implement practices and procedures to obtain and report required U.S. TINs for preexisting accounts that are U.S. reportable accounts.

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[24] There were 1,106,090 records that did not have a TIN and were handled by the ICMM as record-level errors. There were 3,238,630 records that had an invalid TIN, such as "000000000," "111111111," or "999999999," and were not handled by the ICMM as a record-level error. Beginning in Calendar Year 2018, records with TINs that are comprised of nine of the same digit will be handled by the ICMM as a record-level error.

[25] The IRS indicated that the matched counts represent matches with 100 percent certainty based on matching TINs, account numbers, and tax years.

[26] The ICMM does not issue a notification for a record with an invalid TIN.

As a result, procedures have been revised to reflect that the FFIs in Model 1 IGA jurisdictions will be considered compliant with an applicable IGA during Calendar Years 2017, 2018, and 2019 solely as a result of a failure to report U.S. TINs for preexisting accounts, provided that the FFI reports the accountholder's date of birth, makes annual requests for the TIN, and searches its electronic records for missing U.S. TINs before reporting information that relates to Calendar Year 2017. Regarding the 4.3 million records noted previously that either did not have a TIN or had an invalid TIN, the IRS noted that 3,716,879 of the records were received from Model 1 IGA FFIs.

Although the transition period ended in TY 2017 for TY 2016 information being filed by non-IGA FFIs and Model 2 IGA FFIs, ****************2************************
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Additionally, although the requirement for Model 1 IGA FFIs to report the TINs for preexisting accounts begins with the filing of TY 2017 information in Calendar Year 2018, Model 1 IGA FFIs that comply with the revised procedures noted previously will not be considered significantly noncompliant until they file TY 2020 information in Calendar Year 2021.

The FATCA was enacted into law by § 501(a) of the Hiring Incentives to Restore Employment Act of 2010 as a revenue offset to help pay for tax breaks for hiring and retaining qualified workers. However, it is now more than seven years later, and there is no ongoing compliance impact of the FATCA at this time.

The Unsuccessful Matching Program Has Impeded the IRS's Ability to Enforce FATCA Requirements for Individual Taxpayers

The IRS noted that it received the following count of Forms 8938 from taxpayers as of September 30, 2017, shown in Figure 7.

Figure 7: Count of Forms 8938 Received as of September 30, 2017[27]

TY	2014	2015	2016	Total
Forms 8938 Received	307,004	369,003	220,313	**896,320**

Source: Counts provided by the Large Business and International Division, Data Solutions function.

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*******2*******. The IRS noted that timely filing is handled as part of the standard return

[27] TY 2016 Forms 8938 were still being received by the IRS as of September 30, 2017. The IRS estimates that it receives 50 to 60 percent of Forms 8938 in April. The next group is received around June 15, and another group around October 15.

processing procedures. Under the FATCA Program, the IRS places emphasis on identifying instances in which a Form 8938 should have been filed but was not.

In conjunction with verifying FFI compliance with FATCA filing requirements, the IRS should also be able to identify individual taxpayers who are not filing Form 8938 when required by comparing Form 8966 data filed by the FFIs and Form 8938 data filed by taxpayers. However, as noted previously, the IRS's efforts to match information between these forms has been significantly hindered, primarily due to the absence of TINs on a high volume of Forms 8966 because of the transition period and Model 1 IGA provisions. As a result, and also as noted previously, the IRS has only been able to match *******2******* of the Form 8966 records received with foreign financial assets reported by taxpayers on Form 8938 as of September 30, 2017.

In light of the issue with missing or invalid TINs on more than 4.3 million records, IRS management believed that having the FFI's Global Intermediary Identification Number on Forms 8938, which is filed by the taxpayer, would help with matching records. As such, Form 8938 was updated with a field for taxpayers to include the FFI's Global Intermediary Identification Number for TY 2016. However, Form 8938 instructions identify that the field is optional for taxpayers to complete. IRS management stated that the Department of the Treasury did not want to require taxpayers to provide the FFI's Global Intermediary Identification Number due to the potential burden it would place on taxpayers to obtain the number from the FFI.

As noted previously, although the transition period ended regarding TY 2016 information being filed by non-IGA FFIs and Model 2 IGA FFIs in FY 2017, IRS management stated ***2****
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Additionally, although the requirement for Model 1 IGA FFIs to report the TINs for preexisting accounts begins with the filing of TY 2017 information in Calendar Year 2018, Model 1 IGA FFIs that comply with the revised procedures will not be considered to be significantly noncompliant until they file TY 2020 information in Calendar Year 2021.

During our review, the IRS had taken action, or was in the process of taking action, on five compliance activities related to Form 8938. The compliance activities include:

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[28] TIGTA, Ref. No. 2015-30-085, *The Internal Revenue Service Has Made Progress in Implementing the Foreign Account Tax Compliance Act* (Sept. 2015).

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- **Pooled Report Data Analysis –** Model 2 IGA FFIs provide a summary of accounts for which the accountholders have a connection to the United States but have not given consent that would permit the FFIs to disclose their information to the IRS. Pooled Reports identify the total number of accounts and the total combined balance of the accounts. When the legal requirements surrounding Model 2 IGAs are in place, the IRS submits a group request for the specific information related to the accounts of the nonconsenting (noncompliant) accountholders referred to in the Pooled Reports. Upon receipt of the data, the IRS will review the taxpayers to check for noncompliance. **2** ********************************2************************************ ******2*****.

- **Estate and Gift Tax Return Project –** **************2********************* ********************************2********************************** ********************************2********************************** ********************************2********************************** ********************************2********************************** ********************************2********************************** ********************************2********************************** ********************************2********************************** ********************************2********************************** ********************************2********************************** *******2******.

- **Form 8938 Lead Sheets –** The IRS noted that the lead sheet is designed to provide the basic concepts and procedures associated with working a Form 8938 (Internal Revenue Code § 6038D) penalty case. The techniques provided in the lead sheet are not intended to be all inclusive, nor are they mandatory steps to be followed. Revenue agents use judgment in selecting the techniques that apply to each taxpayer. The IRS noted that the lead sheet is available to revenue agents when conducting an examination. The lead sheet was finalized and placed on the IRS website in July 2016. However, there is currently no requirement to use the lead sheet for selecting and reviewing cases under the FATCA.

- **Swiss Bank Program Data Analysis –** The IRS received the names of the 82 FFIs, of which 78 had entered into nonprosecution agreements with the U.S. Department of

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Justice under the Swiss Bank Program. The IRS then compared the Department of Justice data to the FFI data received under the FATCA. For those FFI names the IRS was able to match, the IRS provided the Department of Justice with the account information reported by the FFIs under the FATCA. ***************2**********************
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The first three activities listed are included on the FATCA Compliance Roadmap. The activity related to Pooled Reports, Form 8938 Lead Sheets, and the Swiss Bank Program could help to ensure that taxpayers are filing Forms 8938 when required. Activity related to the high-risk cases and Estate and Gift Tax returns could represent a compliance benefit of the FATCA as they should help ensure compliance with reporting transactions that generate foreign income. While these activities are in various stages of implementation, the IRS acknowledged that compliance action to date has been minimal.

Upon review of the FATCA Compliance Roadmap, we determined that ********2**********
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IRS management stated that a penalty for failing to file Forms 8938 may be assessed on specified domestic entities[30] or individuals. However, they noted that there were no penalty assessments yet on specified domestic entities related to Forms 8938 because they were only required to file the forms for tax years beginning after December 31, 2015.

IRS management indicated that, between October 1, 2016, and September 30, 2017, 75 failure-to-file Form 8938 penalty assessments were made on individuals. These penalties totaled $1,180,000, of which $660,000 in assessments were initial penalties and $520,000 were continuation penalties. These penalties were asserted through the normal examination process. IRS management noted that some taxpayers may have had delinquent or incomplete/incorrect

[30] A specified domestic entity is an entity formed or used for the purpose of holding, directly or indirectly, specified foreign financial assets.

Forms 8938 that were filed as part of the Streamlined Program or Offshore Voluntary Disclosure Program. Those taxpayers pay a miscellaneous offshore penalty in lieu of all other penalties. In addition to penalties, the FATCA's objective of locating undisclosed foreign assets and foreign accounts was to increase tax revenues from the collection of taxes on the interest, dividends, and gains on the sale of those assets.

Recommendations

The Commissioner, Large Business and International Division, should:

Recommendation 2: Initiate compliance efforts to address taxpayers who did not file a Form 8938 but who were reported on a Form 8966 filed by an FFI.

> ***Management's Response:*** The IRS agreed with this recommendation and will continue its efforts to systemically match Form 8966 and Form 8938 data to identify nonfilers and underreporting related to U.S. holders of foreign accounts and to the FFIs. The IRS has initiated development of a data product to automate risk assessments across the FATCA filing population.

Recommendation 3: To reduce taxpayer burden in obtaining a Global Intermediary Identification Number from FFIs, add guidance to the Form 8938 instructions to inform taxpayers on how to use the FFI List Search and Download Tool on the IRS's website to search and identify an FFI's Global Intermediary Identification Number.

> ***Management's Response:*** The IRS agreed with this recommendation and will update the Form 8938 instructions to include guidance directing taxpayers to the FFI List.

Recommendation 4: Initiate compliance efforts to address and correct missing or invalid TINs on Form 8966 filings by non-IGA FFIs and Model 2 IGA FFIs.

> ***Management's Response:*** The IRS disagreed with this recommendation. In their response, management stated that missing TINs on Forms 8966 filed by non-IGA FFIs and Model 2 IGA FFIs are unresolved record-level errors, which are addressed in Recommendation 1. A system to ensure validation of every TIN upon submission of a Form 8966 would be cost prohibitive. Management stated that they will address invalid TINs as they are uncovered in other compliance efforts, such as the risk assessment described in response to Recommendation 2.
>
> ***Office of Audit Comment:*** We agree that the IRS's response to Recommendation 1 will address missing TINs on Form 8966 filed by non-IGA FFIs and Model 2 IGA FFIs. However, its planned action will not ensure that TINs provided are valid. Additionally, Recommendation 4 does not require the IRS to develop a system to ensure that TINs are valid. Instead, the IRS should continue to employ the process that already identified 3,238,630 records that had an invalid TIN, and initiate compliance efforts to address and correct the invalid TINs.

In Response to TIGTA's Concerns, the IRS Recently Initiated Action to Enforce Withholding Agent Compliance With the FATCA

In FY 2010, the IRS initiated a project to identify potentially fraudulent or erroneous refund claims. However, this project related to only refund claims for Chapter 3 withholding[31] of tax because Chapter 4 withholding under the FATCA had not yet been implemented. On September 3, 2015, the IRS transitioned the project into the Form 1120-F[32] Compliance Initiative Project that related to both Chapter 3 and Chapter 4 withholding. However, IRS management stated that there are no automated processes in place to segregate the results of the project because they do not currently have a filter in place to distinguish between Chapter 3 and Chapter 4 Form 1120-F refund claims. As a result, the data pertaining to this project include all Chapter 3 and Chapter 4 refund claims; therefore, the IRS does not know the results on only Chapter 4 refund claims.

Before a refund or credit can be issued, IRS procedures under the project note that the IRS must verify that withholding agents have filed the required returns and deposited taxes withheld with the IRS, and that there is a match between the withholding agent's and recipient's copies of the Form 1042-S. IRS management also stated that they will correspond with a taxpayer if the required information returns are not attached to the return when it is filed. If the taxpayer does not respond to the inquiry, any withholding credit associated with the missing information returns may be partially or fully disallowed or be subject to an examination. IRS management added that they follow the same process when there are mathematical errors on the return. Regarding the claims that were denied, the IRS was unable to identify how many were denied based on each of these criteria. IRS management stated that they do not track this information.

For claims related to Chapter 4 withholding that were denied because the withholding agent did not file required returns or did not deposit taxes withheld, IRS management stated that no compliance action was taken against the withholding agent under the Form 1120-F Compliance Initiative Project. The IRS did not want to subject withholding agents to an examination in the context of reviewing a taxpayer's claim for refund. IRS management noted that examination groups have authority to expand an audit if the issue warrants an expansion. However, they were unable to provide information or results of any examinations that were expanded to address withholding agent compliance.

The Compliance Initiative Project has been replaced by the Form 1120-F Withholding and Refund campaign. This campaign will focus on verifying that, for every Form 1042-S on which the taxpayer is claiming a credit, the IRS can trace the form to a corresponding Form 1042-S filed by the withholding agent. It does not include the activity of reconciling withholding agent filings and deposits. The IRS decided it would be better to address withholding agent compliance in a separate campaign. The Form 1042/1042-S Compliance campaign will address

[31] Chapter 3 withholding applies only to payments of U.S. source income made to a payee that is a foreign person.
[32] *U.S. Income Tax Return of a Foreign Corporation.*

filing inconsistencies through several filters, including Forms 1042-S that do not have a corresponding Form 1042 and insufficient deposits by withholding agents.[33] As of February 21, 2018, filter development and testing were still being conducted. IRS management said that the Form 1042/1042-S Compliance campaign will allow examiners with Form 1120-F Foreign Withholding campaign cases who identify concerns about withholding agent compliance to refer the cases to the Form 1042/1042-S Compliance campaign team for further consideration.

Forms 1042-S filed for the FATCA contain invalid TINs

Figure 8 shows that the IRS's Statistics of Income Division reported the presented counts of Forms 1042-S with a Chapter 4 indicator[34] from withholding agents for TYs 2014 and 2015. Forms 1042-S that are identified with a Chapter 4 indicator represent payments of U.S. source income to foreign persons that are subject to withholding under the FATCA.

Figure 8: Count of Forms 1042-S Received[35]

Form 1042-S Data	TY 2014	TY 2015
Chapter 4 Indicator	7,627	72,350
Total Gross Income	$3,966,222	$3,670,206
Exempt From Withholding	($1,977,655)	($2,922,205)
Subject to Withholding	$1,988,567	$748,001
Federal Tax Withheld	$138,440	$95,006
Withholding Percentage	7%	13%

Source: IRS, Statistics of Income Division, Foreign Recipients of U.S. Source Income, October 2016 and October 2017, respectively (money amounts are in thousands of dollars).

We analyzed the Form 1042-S data from the Information Returns Master File to validate the Form 1042-S data reported by the Statistics of Income Division. Regarding the number of documents, we were able to validate the TYs 2014 and 2015 Statistics of Income data within 17 percent and 2 percent, respectively. The Statistics of Income data reflected totals for type of income, gross income, exempt income, income subject to withholding, and tax withheld. The IRS Form 1042-S database included data for each individual Form 1042-S. We observed that 66 percent of the Form 1042-S documents received for TY 2014 did not have a valid TIN and 88 percent of the Form 1042-S documents received for TY 2015 did not have a valid TIN.

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[33] Compliance Integration Council approved the Form 1042/1042-S Compliance campaign on February 21, 2018.
[34] For TYs 2014 and 2015, Chapter 4 is indicated in Box 4 of Form 1042-S.
[35] TY 2014 represents a partial year because withholding related to the FATCA did not begin until July 1, 2014. Also, TY 2016 data will not be available until August 2018. Dollar amounts have been rounded.

In general, invalid TINs on information documents such as Forms 1042-S impede tax compliance. Regarding the FATCA, Forms 1042-S with invalid TINs cannot be used for their intended purpose of ensuring compliance with the FATCA provisions. We identified 62,398 TY 2015 Forms 1042-S with invalid TINs reporting more than $717 million in U.S. source income, of which just over $47 million was withheld.

Additionally, beginning in FY 2014, Form 1042-S was modified to accommodate reporting of payments and amounts withheld under the provisions of the FATCA (Chapter 4 of the Internal Revenue Code). Withholding agents are required to withhold 30 percent on payments of U.S. source income to accountholders of participating FFIs that fail to provide certain information to the FFIs, *i.e.*, TIN. As demonstrated by the withholding percentages in Figure 8, which show withholding rates of only 7 percent and 13 percent, respectively, for TYs 2014 and 2015, there is potential noncompliance with the law. However, the low withholding rates may relate to payments of U.S. source income to participating FFIs that are not subject to withholding.

As previously noted, the transition period ended with regard to TY 2016 information being filed by non-IGA FFIs and Model 2 IGA FFIs in FY 2017. Therefore, non-IGA FFIs and Model 2 IGA FFIs should now be providing valid TINs on Form 1042-S.

The IRS indicated that two campaigns, the Form 1120-F Refunds and Withholding campaign and the Form 1040NR campaign, include steps that address invalid TINs on Form 1042-S filings. However, ************************2************************************
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Forms 1099 filed for the FATCA contain a sufficient number of valid TINs for compliance efforts

The FATCA requires information reporting on transactions for which the FFIs may already be reporting on Form 1099 series information returns. Accordingly, the FFIs may elect to comply with the FATCA Form 8966 reporting requirements by continuing to file Forms 1099 through enhanced Form 1099 reporting. The IRS also provided us with the count of forms it received for a variety of Forms 1099 that included indicators of the FATCA.[36] For details, see Appendix VI. In contrast to the Form 1042-S data, the number of Forms 1099 with invalid TINs is statistically immaterial.[37] For TY 2016, 97 percent of the TINs on Forms 1099 were valid.[38] As such, the IRS could use Form 1099 data in FATCA compliance efforts.

[36] Form 1099-MISC, *Miscellaneous Income*; Form 1099-INT, *Interest Income*; Form 1099-DIV, *Dividends and Distributions*; Form 1099-OID, *Original Issue Discount*; and Form 1099-R, *Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc.*

[37] A 10 percent error rate was the benchmark for determining materiality.

[38] There were 474,888 Forms 1099 with valid TINs (97 percent) and 16,246 Forms 1099 with invalid TINs (3 percent).

Recommendations

The Commissioner, Large Business and International Division, should:

Recommendation 5: Expand compliance efforts to address and correct the invalid TINs on all Form 1042-S filings by non-IGA FFIs and Model 2 IGA FFIs.

> ***Management's Response:*** The IRS agreed with this recommendation to the extent that it will strengthen overall compliance efforts directed toward improving the accuracy of reporting by Form 1042-S filers. In their response, management stated that they have already initiated compliance initiatives that address invalid TINs on Forms 1042-2 filed by non-IGA FFIs and Model 2 IGA FFIs. Specifically, the "Verification of Form 1042-S Credit Claimed on Form 1040NR" campaign matches credits claimed on Form 1042-S with the Form 1040NR, *U.S. Nonresident Alien Income Tax Return*, and the "Form 1120F Chapter 3 and Chapter 4 Withholding" campaign matches the credits claimed on Forms 1042-S with the Form 1120-F. In addition, the upcoming "Withholding Agent Compliance" campaign (which has not yet been publicly announced) matches Forms 1042 with Forms 1042-S and includes proper withholding rates.
>
> The IRS agreed with our outcome measure pertaining to this recommendation. In their response, IRS management stated that TIN accuracy does not have an effect on revenue collected if withholding occurs at the correct rate. TIN accuracy is critical to granting a credit to a taxpayer based upon Form 1042-S withholding. The IRS will continue its efforts to validate the correct rate of withholding by withholding agents and to validate TINs through its credit-matching programs.

Recommendation 6: Initiate compliance efforts to compare Form 1099 filings with valid TINs to corresponding Form 8938 filings to identify nonfilers or mismatches in reporting of foreign financial assets.

> ***Management's Response:*** The IRS disagreed with this recommendation. In their response, IRS management stated that they have already assessed the risks associated with Forms 1099 filed by the FFIs and determined the risk was minimal. The number of forms filed relative to the Forms 8966 was very low once a significant 2015 filing error was identified and corrected. Forms 1099 are currently matched against Form 1040, *U.S. Individual Income Tax Return*, filings to ensure proper reporting. In addition, the Large Business and International Division has agreed to implement systemic matching of Forms 8966 against Forms 8938, which will be a more effective method of identifying mismatches in reporting of foreign financial assets.

While management disagreed with this recommendation, they agreed with the outcome measure. Management stated that accuracy does not have an effect on revenue collected if withholding occurs at the correct rate. TIN accuracy is critical to granting a credit to a taxpayer based upon Form 1099 withholding. The IRS will continue its efforts to validate the correct rate of withholding by withholding agents and to validate TINs through its credit-matching programs.

Office of Audit Comment: IRS management stated that they have already assessed the risks associated with Forms 1099 filed by the FFIs and determined the risk was minimal. While the number of Forms 1099 is relatively low compared to the Forms 8938, the IRS does not know the extent of compliance risk associated with forms 1099 and should incorporate them into its FATCA compliance strategy.

Appendix I

Detailed Objective, Scope, and Methodology

The overall objective of this review was to evaluate the IRS's efforts to ensure that taxpayers, the FFIs,[1] and withholding agents comply with the FATCA.[2] To accomplish our objective, we:

I. Assessed whether the IRS's leadership placed appropriate emphasis on implementing compliance actions listed on the FATCA Compliance Roadmap.

  A. Identified compliance actions that have been implemented and determined the status/results of those actions.

  B. Identified compliance actions that are past the implementation date but have not been implemented, and determined the cause for any delays (identified any barriers).

  C. Identified changes to the compliance actions and implementation dates between the current and prior Compliance Roadmaps.

    1. Identified the length of any delays.

    2. Assessed the impact of any delays on the IRS's efforts to implement the FATCA.

II. Identified and evaluated the process for verifying FFI reporting compliance.

  A. Determined what actions were taken to ensure that all participating FFIs were submitting reports and submitting them timely.

    1. Identified the level of submission results.

    2. Identified follow-up actions and the corresponding level of results.

  B. Determined what actions were taken to verify that the FFIs were submitting data using the appropriate format.

    1. Identified the level of format compliance.

    2. Identified follow-up actions and the corresponding level of compliance.

  C. Determined what actions were taken to ensure that the FFIs were submitting complete and valid data.

    1. Identified the level of complete and valid data submission results.

[1] See Appendix VII for a glossary of terms.
[2] Pub. L. No. 111-147, Subtitle A, 124 Stat 97 (2010)(codified in scattered sections of 26 U.S.C.).

2. Identified follow-up actions and the corresponding level of data submission results.

D. Determined the results of the IRS's actions to compare Form 8966, *FATCA Report*, data to data received by the U.S. Department of Justice through nonprosecution agreements under the Swiss Bank Program.

E. Determined the status of resolving issues with missing TINs needed for verifying FFI reporting compliance.

1. Identified what actions were being taken or were planned to resolve the issues.
2. Identified any additional barriers to verifying FFI reporting compliance.

F. Determined whether the IRS had assessed any penalties related to FFI reporting or when it planned to begin assessing penalties.

G. Identified the number of U.S. accountholder records that could not be matched to Form 8938, *Statement of Specified Foreign Financial Assets*, data.

III. Identified and evaluated the process for verifying taxpayer reporting compliance.

A. Determined what actions were being taken to ensure that taxpayers were timely filing Forms 8938.

B. Reviewed the process for matching Form 8966 and Form 8938 data.

1. Determined what actions were taken to match Form 8966 and Form 8938 data.
2. Determined the level of success in matching the data.
3. Determined what was being done with data that were not matched.
4. Determined the level of nonreporting or underreporting that had been identified.
5. Determined how the results of matching were being used.

C. Determined the results of the IRS's actions to use data received by the U.S. Department of Justice through nonprosecution agreements under the Swiss Bank Program to identify nonwaiver taxpayers and associate them with account information reported by the FFIs on Forms 8966.

D. Identified what actions were planned upon receipt of responses to requests related to Pooled Reports for additional taxpayer account information.

E. Identified any barriers to verifying taxpayer reporting compliance.

F. Determined whether the IRS had assessed any penalties related to taxpayer reporting or when it planned to begin assessing penalties.

G. Identified the number of returns filed by individuals since Calendar Year 2012 with a Form 8938 attached.

IV. Identified and evaluated the process for verifying withholding agent compliance with withholding, depositing, and reporting requirements; identified FATCA withholding data reported on Forms 1042-S, *Foreign Person's U.S. Source Income Subject to Withholding*, and Form 1099 series information returns;[3] and analyzed Form 1042-S data from the Information Returns Master File to validate the Form 1042-S data reported by the Statistics of Income Division.

A. To remove the records in our data that were duplicates, removed the records for which the Information Returns Master File field "CASE_DUPLICATE_AMENDED_CODE" had an entry of "D," which meant Duplicate, and "R," which meant Original Replaced by Amended. We did not remove records that were originals or that were amended.

Data reliability methodology

We analyzed Form 1042-S data from the Information Returns Master File to validate the Form 1042-S data reported by the Statistics of Income Division. To assess the reliability of the Form 1042-S data, we randomly selected 20 records from our Form 1042-S extract. Specifically, we randomly selected five records from FY 2015 with valid TINs, five records from FY 2015 with invalid TINs, five records from FY 2014 with valid TINs, and five records from FY 2014 with invalid TINs. We researched the taxpayer's TIN on the Information Returns Master File and reconciled the applicable Form 1042-S information to the Federal tax withheld and the gross income amounts. All 20 records reconciled without exception. We determined that the data were sufficiently reliable for purposes of this report.

Internal controls methodology

Internal controls relate to management's plans, methods, and procedures used to meet their mission, goals, and objectives. Internal controls include the processes and procedures for planning, organizing, directing, and controlling program operations. They include the systems for measuring, reporting, and monitoring program performance. We determined that the following internal controls were relevant to our audit objective: the milestones and target dates established in the FATCA Compliance Roadmap for the various processes the IRS planned to complete in order to ensure timely implementation of the FATCA. We compared the current implementation progress with the established milestones and target dates.

[3] The Form 1099 series includes various information returns such as Form 1099-MISC, *Miscellaneous Income*; Form 1099-INT, *Interest Income*; Form 1099-DIV, *Dividends and Distributions*; Form 1099-OID, *Original Issue Discount*; and Form 1099-R, *Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc*.

Appendix II

Major Contributors to This Report

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Appendix III

Report Distribution List

Deputy Commissioner for Services and Enforcement
Commissioner, Large Business and International Division
Deputy Commissioner, Large Business and International Division
Director, Withholding and International Individual Compliance Practice Area, Large Business and International Division
Director, Office of Audit Coordination

Appendix IV

Outcome Measures

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

Type and Value of Outcome Measure:

- Reliability of Information – Potential; 16,246 Forms 1099[1] with invalid TINs for TY 2016 filed with the IRS (see page 18).

Methodology Used to Measure the Reported Benefit:

The IRS received a total of 491,134 Forms 1099 for TY 2016 that had FATCA indicators. Of the 491,134 Forms, 16,246 (3 percent) were filed with an invalid TIN. Without valid TINs, the IRS cannot identify the recipients and/or the validity of the more than $581 billion of U.S. source income and, therefore, the forms are not usable for IRS compliance-matching programs. Figure 1 shows the number of invalid TINs for each type of Form 1099.

Figure 1: TY 2016 Forms 1099 Filed With an Invalid TIN

Form	Count of Invalid TINs	Withholding	Income
1099-MISC	12,497	$20,103,105,482	$581,351,001,743
1099-INT	2,049	$1,962	$5,521,848
1099-DIV	173	$25,223	$8,566,937
1099-OID	1,507	$164,150	$6,946,153
1099-R	20	$283,559	$368,000
Total	**16,246**	**$20,103,580,376**	**$581,372,404,681**

Source: Data provided by the Large Business and International Division, Data Solutions function.

[1] The Form 1099 series includes various information returns such as Form 1099-MISC, *Miscellaneous Income*; Form 1099-INT, *Interest Income*; Form 1099-DIV, *Dividends and Distributions*; Form 1099-OID, *Original Issue Discount*; and Form 1099-R, *Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc*.

The IRS received Forms 1099 with FATCA indicators for TY 2015 with invalid TINs also. However, we are not reporting an outcome for TY 2015 Forms 1099 to ensure that we do not report the same outcome for the same taxpayers for more than one tax year.

Type and Value of Outcome Measure:

- Reliability of Information – Potential; 62,398 Forms 1042-S, *Foreign Person's U.S. Source Income Subject to Withholding*, with invalid TINs reporting more than $717 million, of which just over $47 million was withheld, in U.S. source income filed with the IRS in FY 2016 (see page 18).

Methodology Used to Measure the Reported Benefit:

The IRS Information Returns Master File system received a total of 71,190 Forms 1042-S with Chapter 4 withholding for TY 2015. Of these, 62,398 (88 percent) were filed with an invalid TIN. Without valid TINs, the IRS cannot identify the recipients of the more than $717 million of U.S. source income, of which just over $47 million was withheld, and the forms are, therefore, not usable for IRS compliance-matching programs or for ensuring that the proper amount was withheld. The IRS Information Returns Master File system received Forms 1042-S with Chapter 4 withholding for TY 2014 with invalid TINs also. However, we are not reporting an outcome for TY 2014 Forms 1042-S to ensure that we do not report the same outcome for the same taxpayers for more than one tax year.

Appendix V

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[1] The Form 1099 series includes various information returns such as Form 1099-MISC, *Miscellaneous Income*; Form 1099-INT, *Interest Income*; Form 1099-DIV, *Dividends and Distributions*; Form 1099-OID, *Original Issue Discount*; and Form 1099-R, *Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc*.

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[3] As of December 5, 2017, the IRS noted that the legal requirements surrounding Model 2 IGAs are in place for six of the 14 Model 2 IGA jurisdictions that allow the IRS to request information regarding recalcitrant accountholders.

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Appendix VI

Count of Forms 1099 With FATCA Indicators Received by the IRS for Tax Years 2015 and 2016[1]

Return Type	TY 2015 Valid TIN	TY 2015 Invalid TIN	TY 2015 Total	TY 2016 Valid TIN	TY 2016 Invalid TIN	TY 2016 Total
Form 1099-MISC						
Count	369,646	12,857	382,503	322,367	12,497	334,864
Gross Income	$9,299,052,569	$226,943,478	$9,525,996,047	$15,145,977,362	$581,351,001,743	$596,496,979,105
Federal Tax Withheld	$888,487	$175,281	$1,063,768	$1,017,382	$20,103,105,482	$20,104,122,864
Form 1099-INT						
Count	376,388	8,274	384,662	27,199	2,049	29,248
Gross Income	$9,038,319,205	$230,198,682	$9,268,517,887	$613,129,879	$5,521,848	$618,651,727
Federal Tax Withheld	$874,072	$1,508,435	$2,382,507	$29,330	$1,962	$31,292
Form 1099-DIV						
Count	2,173,854	24,061	2,197,915	7,216	173	7,389
Gross Income	$23,590,642,218	$183,154,562	$23,773,796,780	$3,520,215,275	$8,566,937	$3,528,782,212
Federal Tax Withheld	$3,932,697	$3,480,314	$7,413,011	$376,886	$25,223	$402,109
Form 1099-OID						
Count	166,774	1,817	168,591	115,663	1,507	117,170
Gross Income	$190,935,624	$2,303,507	$193,239,131	$145,717,775	$6,946,153	$152,663,928
Federal Tax Withheld	$0	$0	$0	$0	$164,150	$164,150
Form 1099-R						
Count	0	0	0	2,443	20	2,463
Gross Income	$0	$0	$0	$56,128,753,545	$368,000	$56,129,121,545
Federal Tax Withheld	$0	$0	$0	$94,072,519,504	$283,559	$94,072,803,063

Source: Data provided by the Large Business and International Division, Data Solutions function. TIGTA did not validate the data.[2]

[1] The Form 1099 series includes various information returns such as Form 1099-MISC, *Miscellaneous Income*; Form 1099-INT, *Interest Income*; Form 1099-DIV, *Dividends and Distributions*; Form 1099-OID, *Original Issue Discount*; and Form 1099-R, *Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc.*

[2] The IRS noted that there were no Forms 1099 with FATCA indicators received for TY 2014.

Appendix VII

Glossary of Terms

Term	Definition
Campaign	Campaigns involve a thorough analysis of data to support the identification and evaluation of a compliance issue; a more deliberate consideration of potential treatment streams; decisions about the resources to be deployed; and identification of training, mentoring, networking, and tools needed as well as a robust feedback mechanism to ensure that all elements of a campaign are continuously improved.
Compliance Data Warehouse	Application that provides access to a wide variety of tax return, enforcement, compliance, and other data.
Fiscal Year	Any yearly accounting period, regardless of its relationship to a calendar year. The Federal Government's fiscal year begins on October 1 and ends on September 30.
Fixed, Determinable, Annual, and Periodical Income	Includes all income, except: • Gains derived from the sale of real or personal property (including market discount and option premiums but not including original issue discount). • Items of income excluded from gross income without regard to the U.S. or foreign status of the owner of the income, such as tax-exempt municipal bond interest and qualified scholarship income. Income is fixed when it is paid in amounts known ahead of time. Income is determinable when there is a basis for figuring the amount to be paid. Income can be periodic if it is paid from time to time. It does not have to be paid annually or at regular intervals. Income can be determinable or periodic even if the length of time during which the payments are made is increased or decreased.

Term	Definition
Foreign Account Tax Compliance Act	Law passed in Calendar Year 2010 that identifies tax noncompliance by U.S. taxpayers with foreign accounts as an offset provision in the Hiring Incentives to Restore Employment Act.[1] The FATCA requires U.S. taxpayers to report certain foreign financial accounts and offshore assets. The FATCA also requires the FFIs to report financial accounts held by U.S. taxpayers or foreign entities in which U.S. taxpayers hold a substantial ownership interest. U.S. taxpayers and the FFIs that do not report the required information will be subject to withholding.
Foreign Person	A foreign person includes a nonresident alien individual, a foreign corporation, a foreign partnership, a foreign trust, a foreign estate, and any other person that is not a U.S. person.
Foreign Financial Institution	Any financial institution that is a foreign entity. An entity is a financial institution that: 1) accepts deposits in the ordinary course of a banking or similar business; 2) as a substantial portion of its business, holds financial assets for the account of others; or 3) is engaged (or holding itself out as being engaged) primarily in the business of investing, reinvesting, or trading in securities, partnership interests, commodities, or any interest in such securities, partnership interests, or commodities.
Host Country Tax Authority	Tax agency of a foreign country.
Information Returns Master File	The Information Returns Master File maintains data submitted by employers and other third parties (payers) reporting taxpayer income such as wages, pensions, interest, and dividends paid during the tax year.
International Compliance Management Model	IRS system that ingests, validates, stores, and manages FATCA information, including FATCA reports received both electronically via the IDES and on paper forms.
International Data Exchange Service	A secure web application for the FFIs and the HCTAs to transmit FATCA data directly to the IRS.
Internal Revenue Code	The Federal statutory tax law, enacted as Title 26 of the U.S. Code, that is organized according to topic and covers all relevant rules pertaining to income, gift, estate, payroll, and excise taxes. The IRS is the implementing agency.
Model 1 Intergovernmental Agreement	Agreement between the United States and a foreign government under which an FFI will report U.S. account information to its HCTA, which in turn will automatically provide the information to the IRS.

[1] Pub. L. No. 111-147, 124 Stat. 71 (2010).

Term	Definition
Model 2 Intergovernmental Agreement	Agreement between the United States and a foreign government under which an FFI will be directed to enter into an agreement with the IRS and will report U.S. account information directly to the IRS in a manner consistent with FATCA regulations.
Nonfinancial Foreign Entity	Any foreign entity that is not a financial institution.
Non-Intergovernmental Agreement Participating Foreign Financial Institution	The use of this term signifies that the agreement between the PFFI and the IRS is not bound to an IGA. When a PFFI in a non-IGA jurisdiction completes its FATCA registration, the PFFI is agreeing to comply with the terms of the FFI agreement.
Offset Provision	Provision enacted as part of the Hiring Incentives to Restore Employment Act in order to provide additional revenue to pay for or part of the cost of the Act.
Participating Foreign Financial Institution	An FFI, including a reporting Model 2 FFI, that has entered into a registration agreement with the IRS to identify U.S. accounts, report certain information to the IRS regarding U.S. accounts, and withhold a 30 percent tax on certain U.S. payments to non-PFFIs and accountholders that are unwilling to provide the required information.
Processing Year	The calendar year in which tax returns and other tax data are processed.
Reporting Model 2 Foreign Financial Institution	A financial institution or branch of a financial institution treated as a reporting financial institution under a Model 2 IGA. A reporting Model 2 FFI should register as a PFFI and is agreeing to comply with the terms of the FFI agreement as modified by the applicable Model 2 IGA.
Tax Year	The 12-month accounting period for keeping records on income and expenses used as the basis for calculating the annual taxes due. For most individual taxpayers, the tax year is synonymous with the calendar year.
Taxpayer Identification Number	A TIN such as an Employer Identification Number for businesses and Social Security Number for individuals. Valid TINs are TINs recognized by the IRS Master File, while invalid TINs are not recognized by the IRS Master File.
Withholding Agent	Any person required to withhold tax is a withholding agent. A withholding agent may be an individual, trust, estate, partnership, corporation, nominee, government agency, association, or tax-exempt foundation, whether domestic or foreign. For purposes of Chapter 4, a withholding agent includes a PFFI or registered deemed-compliant FFI to the extent such FFI is required to withhold tax.

Appendix VIII

Management's Response to the Draft Report

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, DC 20224

COMMISSIONER
LARGE BUSINESS AND
INTERNATIONAL DIVISION

May 25, 2018

MEMORANDUM FOR DEPUTY INSPECTOR GENERAL FOR AUDIT
MICHAEL E. MCKENNEY

FROM: Douglas W. O'Donnell Douglas W. O'Donnell 5/25/2018
Commissioner, Large Business and International Division

SUBJECT: Draft Audit Report # 2017-30-029, Despite Spending Nearly $380 Million, the Internal Revenue Service is Still Not Prepared to Enforce Compliance With the Foreign Account Tax Compliance Act

Thank you for the opportunity to review and comment on the draft report referenced above. We appreciate the collaboration between the TIGTA audit team and IRS personnel in identifying opportunities for improvement. As discussed in the report, Foreign Account Tax Compliance Act (FATCA) was enacted to improve U.S. taxpayer compliance with reporting foreign financial assets and offshore accounts, and the IRS has made considerable progress in this area. Third party information reporting is a cornerstone of promoting voluntary tax compliance and enforcement of the Internal Revenue Code.

The Treasury Department and the IRS issued comprehensive regulations providing guidance necessary for taxpayers and financial institutions to implement FATCA. Additionally, the IRS created a registration system for foreign financial institutions (FFIs) and withholding agents and updated forms and instructions that were essential to full implementation. These efforts prepared FFIs and withholding agents to begin FATCA withholding and reporting. In addition, with no separate appropriation to implement FATCA, the IRS built a world class data exchange system—the International Data Exchange Service (IDES)—as a secure, electronic platform for transmitting and exchanging data. The IDES facilitates the automatic exchange of financial account information, in a uniform fashion, between the IRS and foreign partner tax administrations. IDES also enables the IRS to receive information directly from financial institutions throughout the world. As FATCA implementation via IDES progressed, the international tax community recognized the importance of the automatic exchange of financial account information for purposes of improving their residents' tax compliance. Shortly after the start of FATCA withholding and reporting in 2014, the Organization for Economic Cooperation and Development (OECD) published the Standard for Automatic Exchange of Financial Account information in Tax Matters, commonly known as the Common Reporting Standard or CRS, largely based on FATCA. Additionally, the IDES has become a model for cross-border information exchange to encourage voluntary tax compliance, and is the basis for the Common Transmission System (CTS) used by the OECD. Over 100 foreign jurisdictions have committed to exchange of financial account information under CRS, with nearly half of those jurisdictions exchanging information in 2017 using CTS and the data preparation tools developed by the IRS.

We agree with the importance of the enforcement efforts highlighted in the report. However, the narrow focus of the report should not be used to draw conclusions about the entirety of the IRS's enforcement efforts in this area. The report focuses on an early internal planning document, the roadmap, which was not intended to be a comprehensive compliance plan and was superseded by campaign planning and other task specific documents that more timely address changing circumstances. The roadmap could not envision future policy changes such as the extension of the initial phase-in period for taxpayer identification number reporting that was part of the original legal framework contained in the intergovernmental agreements. The report also omits discussion of the global transformation in exchange of financial account information because of the IRS's efforts to implement FATCA. The report leaves the reader with the incorrect impression that FATCA is not being enforced.

The information provided by FFIs and withholding agents on their U.S. accounts pursuant to FACTA is important to our compliance efforts, as is the specified foreign financial asset reporting by taxpayers on the Form 8938. As the report noted, we are taking action to reduce inaccurate or missing information and have initiated multiple compliance activities related to the Form 8938, including developing automated risk assessments across the FATCA filing population. We will continue our efforts to systemically identify non-filers and underreporting related to U.S. holders of foreign accounts and FFIs.

Now that IRS has accomplished the substantial task of implementing FATCA, we will continue to address improving compliance efforts highlighted in the report. We agree with four of the six report recommendations and the outcome measures. Attachment I provides a response outlining our corrective actions for the agreed recommendations. Attachment II provides a response to the Outcome Measures.

If you have any questions, please contact me, or members of your staff may contact John V. Cardone, Director, Withholding & International Individual Compliance Practice Area at (202) 317-8830.

Attachments (2)

Attachment I

RECOMMENDATION 1:

The Commissioner, Large Business and International Division, should establish follow-up procedures and initiate action to address error notices related to file submissions rejected by the ICMM to ensure that non-IGA FFIs and Model 2 IGA FFIs submit FATCA reports properly and to address unresolved record-level errors to ensure that FFIs correctly provide data for mandatory fields.

CORRECTIVE ACTIONS:

We agree with this recommendation. LB&I will establish a compliance initiative to address error notices and unresolved record-level errors, including follow-up procedures, to improve the accuracy of data in FATCA reports.

IMPLEMENTATION DATE:

December 15, 2019

RESPONSIBLE OFFICIAL(S):
The Director, Withholding & Individual International Compliance Practice Area

CORRECTIVE ACTION(S) MONITORING PLAN:

We will monitor this corrective action as part of our internal management control system.

2

RECOMMENDATION 2:

The Commissioner, Large Business and International Division, should initiate compliance efforts to address taxpayers who did not file a Form 8938 but who were reported on a Form 8966 filed by an FFI.

CORRECTIVE ACTIONS:

We agree with this recommendation. We will continue our efforts to systemically match Form 8966 and Form 8938 data to identify non-filers and underreporting related to U.S. holders of foreign accounts and to Foreign Financial Institutions. The IRS has initiated development of a data product to automate risk assessments across the FATCA filing population.

IMPLEMENTATION DATE:

March 15, 2019

RESPONSIBLE OFFICIAL(S):
Director, Withholding & Individual International Compliance Practice Area

CORRECTIVE ACTION(S) MONITORING PLAN:

We will monitor this corrective action as part of our internal management control system.

RECOMMENDATION 3:

The Commissioner, Large Business and International Division should, to reduce taxpayer burden in obtaining a Global Intermediary Identification Number from FFIs, add guidance to the Form 8938 instructions to inform taxpayers on how to use the FFI List Search and Download Tool on the IRS's website to search and identify an FFI's Global Intermediary Identification Number.

CORRECTIVE ACTIONS:

We agree with this recommendation. We will update the Form 8938 instructions to include guidance directing taxpayers to the FFI List.

IMPLEMENTATION DATE:

December 15, 2019

RESPONSIBLE OFFICIAL(S):

The Director, Withholding & Individual International Compliance Practice Area

CORRECTIVE ACTION(S) MONITORING PLAN:

We will monitor this corrective action as part of our internal management control system.

4

RECOMMENDATION 4:

The Commissioner, Large Business and International Division should initiate compliance efforts to address and correct missing or invalid TINs on Form 8966 filings by non-IGA FFIs and Model 2 IGA FFIs.

CORRECTIVE ACTIONS:

We disagree with this recommendation. Missing taxpayer identification numbers on Forms 8966 filed by non-IGA FFIs and Model 2 IGA FFIs are unresolved record level errors, which are addressed in Recommendation 1. The recommendation calls for a system to ensure validation of every taxpayer identification number upon submission of a Form 8966, and such a system would be cost prohibitive. We will address invalid TINs as they are uncovered on other compliance efforts, such as the risk assessment described in response to Recommendation 2.

IMPLEMENTATION DATE:

N/A

RESPONSIBLE OFFICIAL(S):

N/A

CORRECTIVE ACTION(S) MONITORING PLAN:

N/A

RECOMMENDATION 5:

The Commissioner, Large Business and International Division should expand compliance efforts to address and correct the invalid TINs on all Form 1042-S filings by non-IGA FFIs and Model 2 IGA FFIs.

CORRECTIVE ACTIONS:

We agree with this recommendation to the extent that the intent of TIGTA's recommendation is to strengthen overall compliance efforts directed toward improving the accuracy of reporting by Form 1042-S filers. We have already initiated compliance initiatives that address invalid TINs on Forms 1042-2 filed by non-IGA FFIs and Model 2 IGA FFIs. The "Verification of Form 1042-S Credit Claimed on Form 1040NR" campaign matches credits claimed on Form 1042S with the Form 1040NR. The "Form 1120F Chapter 3 and Chapter 4 Withholding" campaign matches the credits claimed on Forms 1042S with the Form 1120F. The upcoming "Withholding Agent Compliance" campaign (which has not yet been publicly announced) matches Forms 1042 with Forms 1042S and includes proper withholding rates.

IMPLEMENTATION DATE:

Completed

RESPONSIBLE OFFICIAL(S):

N/A

CORRECTIVE ACTION(S) MONITORING PLAN:

N/A

RECOMMENDATION 6:

The Commissioner, Large Business and International Division should initiate compliance efforts to compare Form 1099 filings with valid TINs to corresponding Form 8938 filings to identify non-filers or mismatches in reporting of foreign financial assets.

CORRECTIVE ACTIONS:

We disagree with this recommendation. The IRS has already assessed the risks associated with Forms 1099 filed by FFIs and determined the risk was minimal. The number of forms filed relative to the Forms 8966 was very low once a significant 2015 filing error was identified and corrected. Forms 1099 are currently matched against Form 1040 filings to ensure proper reporting. In addition, LB&I has agreed to implement systemic matching of Forms 8966 against Forms 8938, which will be a more effective method of identifying mismatches in reporting of foreign financial assets.

IMPLEMENTATION DATE:

N/A

RESPONSIBLE OFFICIAL(S):

N/A

CORRECTIVE ACTION(S) MONITORING PLAN:

N/A

Attachment II

<u>Type and Value of Outcome Measure</u>:

Reliability of Information – Potential; 16,246 Forms 1099 with invalid TINs for TY2016 filed with the IRS.

We agree, although TIN accuracy does not have an effect on revenue collected if withholding occurs at the correct rate. TIN accuracy is critical to granting a credit to a taxpayer based upon Form 1099 withholding. We will continue our efforts to validate the correct rate of withholding by withholding agents and to validate TINs through our credit matching programs.

<u>Type and Value of Outcome Measure</u>:

Reliability of Information – Potential; 62,398 Forms 1042-S, *Foreign Person's U. S. Source Income Subject to Withholdings,* with invalid TINs reporting over $717million, of which just over $47 million was withheld, in U.S. source income filed with the IRS in FY 2016.

We agree, although TIN accuracy does not have an effect on revenue collected if withholding occurs at the correct rate. TIN accuracy is critical to granting a credit to a taxpayer based upon Form 1042-S withholding. We will continue our efforts to validate the correct rate of withholding by withholding agents and to validate TINs through our credit matching programs.