



*Fiscal Year 2019 Statutory Audit of
Compliance With Notifying Taxpayers
of Their Rights When Requested to
Extend the Assessment Statute*

August 7, 2019

Reference Number: 2019-30-054

This report has cleared the Treasury Inspector General for Tax Administration disclosure review process and information determined to be restricted from public release has been redacted from this document.

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HIGHLIGHTS

FISCAL YEAR 2019 STATUTORY AUDIT OF COMPLIANCE WITH NOTIFYING TAXPAYERS OF THEIR RIGHTS WHEN REQUESTED TO EXTEND THE ASSESSMENT STATUTE

Highlights

Final Report issued on August 7, 2019

Highlights of Reference Number: 2019-30-054 to the Commissioner of Internal Revenue.

IMPACT ON TAXPAYERS

The IRS is required by law to notify taxpayers of their rights when requesting an extension of the statute of limitations for assessing additional taxes and penalties. Taxpayers might be adversely affected if the IRS does not follow the requirements to notify both the taxpayers and their representatives of the taxpayers' rights related to assessment statute extensions.

WHY TIGTA DID THE AUDIT

TIGTA is required by law to annually determine whether the IRS complied with Internal Revenue Code Section 6501(c)(4)(B), which requires that the IRS provide notice to taxpayers of their rights to decline to extend the assessment statute of limitations or to request that any extension be limited to a specific period of time or specific issues.

WHAT TIGTA FOUND

TIGTA's review of a statistical sample of 60 closed taxpayer audit files with assessment statute extensions found that the IRS was compliant with Internal Revenue Code Section 6501(c)(4)(B). However, 13 of the taxpayer audit files lacked documentation to support that employees followed the IRS's internal procedures for further explaining the taxpayers' rights to the taxpayers.

In addition, TIGTA's review found instances in which the audit files lacked documentation to support that the IRS complied with procedures requiring the notification of a taxpayer's representative when an authorization for third-party representation exists. Seven of the

taxpayer audit files did not contain documentation to support that the taxpayers' representatives were provided with the required notifications.

WHAT TIGTA RECOMMENDED

TIGTA made no recommendations in this report.



TREASURY INSPECTOR GENERAL
FOR TAX ADMINISTRATION

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

August 7, 2019

MEMORANDUM FOR COMMISSIONER OF INTERNAL REVENUE

FROM: Michael E. McKenney
Deputy Inspector General for Audit

SUBJECT: Final Audit Report – Fiscal Year 2019 Statutory Audit of Compliance With Notifying Taxpayers of Their Rights When Requested to Extend the Assessment Statute (Audit # 201930008)

This report presents the results of our review to determine whether the Internal Revenue Service (IRS) complied with Internal Revenue Code Section 6501(c)(4)(B), which requires that the IRS provide notice to taxpayers of their rights to decline to extend the assessment statute of limitations or to request that any extension be limited to a specific period of time or specific issues. The Treasury Inspector General for Tax Administration is statutorily required to provide information annually regarding the IRS's compliance with this provision. This audit is included in our Fiscal Year 2019 Annual Audit Plan and addresses the major management challenge of Protecting Taxpayer Rights.

Although we made no recommendations in this report, we provided IRS officials an opportunity to review the draft report. IRS management did not provide us with any report comments.

If you have any questions, please contact me or Matthew A. Weir, Assistant Inspector General for Audit (Compliance and Enforcement Operations).



*Fiscal Year 2019 Statutory Audit of Compliance
With Notifying Taxpayers of Their Rights When
Requested to Extend the Assessment Statute*

Table of Contents

<u>Background</u>	Page 1
<u>Results of Review</u>	Page 7
<u>The Internal Revenue Service Was Compliant With Legal Requirements Related to Requests to Extend the Assessment Statute</u>	Page 7
<u>Internal Requirements for Notifying Taxpayers and Their Representatives of Taxpayers' Rights Were Not Always Followed</u>	Page 7
Appendices	
<u>Appendix I – Detailed Objective, Scope, and Methodology</u>	Page 9
<u>Appendix II – Major Contributors to This Report</u>	Page 11
<u>Appendix III – Report Distribution List</u>	Page 12
<u>Appendix IV – Sampling and Case Review Methodology</u>	Page 13
<u>Appendix V – Prior Reports on Compliance With Requests to Extend the Assessment Statute</u>	Page 16
<u>Appendix VI – Audit Review Results by Division</u>	Page 17
<u>Appendix VII – Error Rates for Noncompliance With Internal Revenue Service Procedures for Notifying Taxpayers and Their Representatives</u>	Page 18



*Fiscal Year 2019 Statutory Audit of Compliance
With Notifying Taxpayers of Their Rights When
Requested to Extend the Assessment Statute*

Abbreviations

BMF	Business Master File
FY	Fiscal Year
IMF	Individual Master File
I.R.C.	Internal Revenue Code
IRM	Internal Revenue Manual
IRS	Internal Revenue Service
RRA 98	Restructuring and Reform Act of 1998
TIGTA	Treasury Inspector General for Tax Administration



*Fiscal Year 2019 Statutory Audit of Compliance
With Notifying Taxpayers of Their Rights When
Requested to Extend the Assessment Statute*

Background

The Internal Revenue Service (IRS) is required by the IRS Restructuring and Reform Act of 1998 (RRA 98) and the Internal Revenue Code (I.R.C.) to notify taxpayers of their rights when requesting an extension of the statute of limitations for the assessment of additional taxes and penalties.¹ When the IRS audits a tax return and determines that there is an additional tax liability, the additional tax assessment must generally be processed within three years from the date the return was due or from the date on which the return was actually filed, whichever is later. This three-year assessment statute of limitations normally cannot be extended without the taxpayer's written consent.

The IRS is required to notify taxpayers of their rights when requesting an extension of the statute of limitations for the assessment of additional taxes and penalties.

To extend the statute, the IRS generally requests that the taxpayer provide a signed consent form, such as Form 872, *Consent to Extend the Time to Assess Tax*; Form 872-B, *Consent to Extend the Time to Assess Miscellaneous Excise Taxes*; Form 872-P, *Consent to Extend the Time to Assess Tax Attributable to Partnership Items*; or Form SS-10, *Consent to Extend the Time to Assess Employment Taxes*.² IRS employees who often request assessment statute extensions include examiners in the various Examination functions of the business divisions and appeals officers in the Office of Appeals. These consents extend the assessment statute of limitations to either a specific period of time or an unlimited, indefinite period on each occasion when the taxpayer is requested to provide such consent. The statute is usually extended for a period of time that both the IRS and the taxpayer agree is reasonable to complete the examination. The consent can also be negotiated to apply only to certain audit issues.

In passing the RRA 98, Congress wanted to ensure that taxpayers are fully aware of their rights to refuse or limit the statute extension. Otherwise, taxpayers might believe that they are required to agree to an extension upon the request of the IRS.

¹ RRA 98 § 3461(b)(2)(B), Pub. L. No. 105-206, 112 Stat. 685 (codified as amended in scattered sections of 2 U.S.C., 5 U.S.C. app., 16 U.S.C., 19 U.S.C., 22 U.S.C., 23 U.S.C., 26 U.S.C., 31 U.S.C., 38 U.S.C., and 49 U.S.C.). I.R.C. § 6501(c)(4)(B).

² For partnerships, Form 872-P is used for fixed-date Tax Equity and Fiscal Responsibility Act partnership-level consent. This form should be signed by the Tax Matters Partner or authorized officials. For employment taxes, Form SS-10 is used.



*Fiscal Year 2019 Statutory Audit of Compliance
With Notifying Taxpayers of Their Rights When
Requested to Extend the Assessment Statute*

A taxpayer might agree to extend the assessment statute of limitations for the following reasons:

- The taxpayer might want to pursue additional audit issues that are in the taxpayer's favor in offsetting a proposed tax assessment or that might allow for a tax refund.
- If the remaining time before the statute expires is too short, the IRS might have to prematurely stop the audit process and issue a notice of deficiency that limits the time for the normal appeals process before the taxpayer must file a petition with the U.S. Tax Court.

A taxpayer might decide to limit or refuse to extend the assessment statute of limitations because the taxpayer might not want to:

- Provide the IRS more time to consider additional audit issues.
- Allow the IRS the opportunity to further develop audit issues already under consideration after the normal statute period has expired.

RRA 98 Section (§) 3461(b)(2)(B) requires the IRS to "...notify the taxpayer of the taxpayer's right to refuse to extend the period of limitations, or to limit such extension to particular issues or to a particular period of time, on each occasion when the taxpayer is requested to provide such consent." To implement this statutory requirement, the IRS revised its procedures to direct IRS employees to provide the taxpayer with Letter 907, *Request to Extend Assessment Statute*, or Letter 967, *Letter Transmitting Consent Extending Period of Limitation*. Included with these letters should be the actual consent forms to be signed as well as Publication 1035, *Extending the Tax Assessment Period*, which includes a more detailed explanation of the taxpayer's rights and consequences of the taxpayer's choices.

The consent forms include a prominent statement informing taxpayers of their rights regarding assessment statute extensions and provide information about Publication 1035. Figure 1 shows that the consent forms also include a statement for the taxpayer's representative to sign, confirming that they were notified of their rights regarding assessment statute extensions and that the taxpayers were made aware of the same rights. In addition, the consent form includes a place for an IRS official's signature. Prior to signing the consent form, the manager should review the case file and consent form in compliance with Internal Revenue Manual (IRM) 25.6.22.5.13(1), *Manager's Responsibilities When Signing Consents*.³

³ August 26, 2011.



*Fiscal Year 2019 Statutory Audit of Compliance
With Notifying Taxpayers of Their Rights When
Requested to Extend the Assessment Statute*

Figure 1: Excerpt of Form 872

Form 872 (Rev. July 2014)	Department of the Treasury-Internal Revenue Service	In reply refer to:
	Consent to Extend the Time to Assess Tax	TIN

Your Rights as a Taxpayer

You have the right to refuse to extend the period of limitations or limit this extension to a mutually agreed-upon issue(s) or mutually agreed-upon period of time. **Publication 1035, Extending the Tax Assessment Period**, provides a more detailed explanation of your rights and the consequences of the choices you may make. If you have not already received a Publication 1035, the publication can be obtained, free of charge, from the IRS official who requested that you sign this consent or from the IRS' web site at www.irs.gov or by calling toll free at 1-800-TAX-FORM (1-800-829-3676). Signing this consent will not deprive you of any appeal rights to which you would otherwise be entitled.

YOUR SIGNATURE HERE → _____ (Date signed)

(Type or Print Name)

I am aware that I have the right to refuse to sign this consent or to limit the extension to mutually agreed-upon issues and/or period of time as set forth in I.R.C. § 6501(c)(4)(B).

TAXPAYER'S REPRESENTATIVE SIGN HERE → _____ (Date signed)
(Only needed if signing on behalf of the taxpayer.) _____
(Type or Print Name)

I am aware that I have the right to refuse to sign this consent or to limit the extension to mutually agreed-upon issues and/or period of time as set forth in I.R.C. § 6501(c)(4)(B). In addition, the taxpayer(s) has been made aware of these rights.

If this document is signed by a taxpayer's representative, the Form 2848, Power of Attorney and Declaration of Representative, or other power of attorney document must state that the acts authorized by the power of attorney include representation for the purposes of Subchapter C of Chapter 63 of the Internal Revenue Code in order to cover items in paragraph (4).

INTERNAL REVENUE SERVICE SIGNATURE AND TITLE

_____ (IRS Official's Name - see instructions)	_____ (IRS Official's Title - see instructions)
_____ (IRS Official's Signature - see instructions)	_____ (Date signed)

Source: IRS Form 872. Note: The wording on Form SS-10 is consistent with that shown on Form 872.



*Fiscal Year 2019 Statutory Audit of Compliance
With Notifying Taxpayers of Their Rights When
Requested to Extend the Assessment Statute*

IRS procedures require that any notice or other written communication required to be given to a taxpayer also be given to the taxpayer's representative (unless restricted by the taxpayer), along with a cover letter, Letter 937, *Transmittal Letter for Power of Attorney*.⁴ IRS employees are instructed to document in their audit file activity log whether the taxpayer was notified of his or her rights each time the IRS requested an assessment statute extension. In addition, IRS internal procedures require employees to provide copies of any correspondence with a taxpayer's representative to the taxpayer.

In Fiscal Year (FY) 2018, the IRS completed its revised job aid for examiners on using Form 10949, *Statute Extension Check Sheet*.⁵ Figure 2 shows that Form 10949, specifically Part 1 questions 11 through 15, should remind the employee of the requirements to properly notify taxpayers of their rights when requesting an extension of the statute of limitations.

⁴ Conference and Practice Requirements, Statement of Procedural Rules, 26 C.F.R. § 601.506 (2002).

⁵ Form 10949 is a job aid audit tool for preparing, issuing, and receiving consents to extend the statute of limitations, with links to applicable procedures within the IRM.



*Fiscal Year 2019 Statutory Audit of Compliance
With Notifying Taxpayers of Their Rights When
Requested to Extend the Assessment Statute*

Figure 2: Excerpt of Form 10949

Statute Extension Check Sheet			
Taxpayer			
Tax Period	Examiner		
This form is a job aid and is not a substitute for, nor does it take precedence over, the provisions of applicable IRMs			
Part 1 - Prepare and Issue Consent		Action Taken	N/A
1. Obtain managerial approval to solicit a consent – IRM 25.6.22.2.1(2)			
2. Prepare most current appropriate consent form in duplicate(s) – IRM 25.6.22.5.2(4) . Refer to IRM 25.6.22.4 Consent Forms, Letters, and Publications to determine which forms to use. Consent form must contain Notification of Taxpayer's rights – IRM 25.6.22.3 . See footnote (a)			
3. Include examiner's identification (i.e., office symbols, name, identifying info, etc.) in the "in reply refer to" box			
4. Verify correct taxpayer identification number - IRM 25.6.22.5.9			
5. Determine correct taxpayer name for consent – IRM 25.6.22.6.1 . Generally, the name should match the name on the return or electronic filing transcript. However, if there was a name change, show both current & former names IRM 25.6.22.5.3			
6. If a corporate return, follow procedures for taxpayer name in accordance with IRM 25.6.22.6.2 thru 25.6.22.6.2.5 . If there is a name change, verify whether there were any business reorganizations which would impact who is authorized to sign the consent and bind the entity. It is a best practice to obtain updated authorizations to confirm who is empowered to sign the Form 872			
7. Verify current address – IRM 25.6.22.5.5			
8. Verify "kind of tax" is correct – IRM 25.6.22.5.4			
9. Verify the tax period(s) to be extended – IRM 25.6.22.5.6 . State tax period in full –e.g., December 31, 2006. If you have more than one tax period to be extended please refer to IRM 25.6.22.5.6.1			
10. Verify the expiration date is correct – IRM 25.6.22.5.7 . State date in full –e.g., December 31, 2010. If you have an open-ended consent, follow IRM 25.6.22.7			
11. Generate most current version of Letter 907 or Letter 907-L and Publication 1035 . Letter 907-L is used by LB&I only in case of Corporation, S-Corporation and Partnership tax returns			
12. Mail or present consent, Letter 907 or Letter 907-L and Publication 1035 each time when a request is made to the taxpayer soliciting a consent to extend the period of time for assessment - IRM 25.6.22.3. The notification should be made to the taxpayer (see IRM 25.6.22.3.1, Separate Notification of Each Spouse, for joint return situations) and the taxpayer's properly authorized representative IRM 25.6.22.3 (2)b			
13. If a POA, issue Letter 937 with copies of Letter 907 or Letter 907-L , consent and Publication 1035 – IRM 25.6.22.3(2)b			
14. If a joint return, send separate notices where required – IRM 25.6.22.3.1			
15. Retain copy of letter(s) in case file, update activity record as to actions taken – IRM 25.6.22.3(3)			
16. If the consent is not timely returned by the taxpayer, issue Letter 928 , follow-up letter when consents have been previously requested but not received – IRM 25.6.22.4.2			
Part 2 - Examiner Actions Upon Receipt of Signed Consent		Action Taken	N/A
1. Ensure consent is properly date stamped by receiving office – IRM 25.6.22.5.12(1)a			
2. Ensure consent is properly executed by the taxpayer or representative, with original signature(s) - IRM 25.6.22.5.12(1)b and IRM 25.6.22.5.2 . Consent forms signed by the taxpayer(s) or duly authorized representative and submitted via fax are acceptable only if all of the conditions listed below are met - IRM 25.6.22.5.1 . Fax Signatures: <ul style="list-style-type: none"> • Contact with the taxpayer(s) is made by phone or in-person, • The taxpayer(s) history/activity record documents the date and method of contact, and • The taxpayer(s) history/activity record notes that the taxpayer wishes to send the consent by fax. and the case history is documented as described Note: This guidance does not extend to the use of faxed, or other electronically generated, signatures by Service personnel. Raise concerns of any obvious discrepancies with signatures to manager			
3. Ensure taxpayer and/or representative does not make any alterations, deletions or impose any restrictions on the consent – IRM 25.6.22.5.12(1)b . A consent which was signed by a taxpayer must not be unilaterally altered by a Service employee – See Note in IRM 25.6.22.5.12			

Form **10949** (Rev. 4-2018) Catalog Number 243231 publish.no.irs.gov Department of the Treasury - Internal Revenue Service

Source: IRS intranet website.



*Fiscal Year 2019 Statutory Audit of Compliance
With Notifying Taxpayers of Their Rights When
Requested to Extend the Assessment Statute*

Effective March 26, 2019, the IRS took corrective action on the Treasury Inspector General for Tax Administration's (TIGTA) recommendation made in the FY 2018 report⁶ and updated IRM 25.6.22 to clarify management's responsibilities when requesting an extension. The IRM update ensures that management or other authorized officials verify that the notification of the taxpayer's rights are provided to all taxpayers and authorized representatives when an extension is requested. Additionally, management or other authorized officials will verify the notification was properly documented in the case activity record or on other appropriate forms.

TIGTA is required by the RRA 98 to provide information annually regarding the IRS's compliance with I.R.C. § 6501(c)(4)(B). This report presents the results of our twentieth annual review of the IRS's compliance with the statute extension provisions of the law.⁷

This review was performed with information obtained from the Office of Appeals, the Large Business and International Division, and the Tax Exempt and Government Entities Division Headquarters in Washington, D.C.; the Small Business/Self-Employed Division Headquarters in New Carrollton, Maryland; and the Wage and Investment Division Headquarters in Atlanta, Georgia, during the period December 2018 through May 2019. 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.

⁷ See Appendix V for a list of our most recent prior reports issued from FYs 2009 through 2018.



*Fiscal Year 2019 Statutory Audit of Compliance
With Notifying Taxpayers of Their Rights When
Requested to Extend the Assessment Statute*

Results of Review

The IRS was compliant with legal requirements to notify taxpayers of their rights when requesting an extension of the statute of limitations for assessing additional taxes and penalties. However, employees did not always follow internal IRS requirements to document that detailed letters further explaining the taxpayers' rights to both the taxpayer and taxpayers' representatives were sent.

The Internal Revenue Service Was Compliant With Legal Requirements Related to Requests to Extend the Assessment Statute

The IRS is required to notify taxpayers of their rights when requesting an extension of the statute of limitations for assessing additional taxes and penalties. Based on the results of this review, we believe that the IRS was compliant with legal requirements.⁸ We reviewed a statistically valid sample of 60 closed taxpayer audit files for cases in which the taxpayers granted an extension of the statute expiration date. We did not identify any instances in which the IRS failed to provide notice to the taxpayers of their rights to decline to extend the assessment statute of limitations or to request that any extension be limited to a specific period of time or specific issues. In all 60 taxpayer audit files, the legal requirements were satisfied when the taxpayers or the taxpayers' representatives signed Forms 872 or SS-10, because the taxpayers' rights are clearly specified on the front of the forms.

Internal Requirements for Notifying Taxpayers and Their Representatives of Taxpayers' Rights Were Not Always Followed

IRS procedures and publications go beyond statutory requirements by providing both the taxpayer and the taxpayer's authorized representative with notices, including notification of the taxpayer's rights. The IRS's internal procedures require that notification be made to the taxpayer by sending Letter 907 or Letter 967, along with a properly completed consent form, which contains the notice of taxpayers' rights and Publication 1035, each time a request is made to the taxpayer to consent to extend the period for assessment.⁹ IRS employees must also document in the case file on Form 9984, *Examining Officer's Activity Record*, that the required notification was made. We found that taxpayer audit files did not always contain documentation to support that the IRS complied with these procedures.

⁸ I.R.C. § 6501(c)(4)(B).

⁹ IRM 25.6.22.3(3) (Mar. 26, 2019). IRS internal procedures do not require the taxpayer's representative notification package to include Publication 1035.



*Fiscal Year 2019 Statutory Audit of Compliance
With Notifying Taxpayers of Their Rights When
Requested to Extend the Assessment Statute*

- From our statistically valid sample of 60 taxpayer audit files, we identified 13 (21.7 percent) audit files that did not contain documentation to indicate whether taxpayers were properly notified of their rights as required by the IRS's internal procedures, *i.e.*, Letter 907 or Letter 967 was not in the case file and/or the activity log was not appropriately documented that the notification was made.¹⁰ Based on our sample results, from a universe of 7,572 taxpayer audit files with statute extensions, we project there were 1,639 taxpayer audit files that did not contain documentation to show that the taxpayers were properly notified of their rights when the assessment statutes were extended.¹¹
- Of the 60 taxpayer audit files, seven (11.7 percent) audit files did not contain documentation to support that the taxpayers' representatives were provided with the required notifications, *i.e.*, Letter 937 or Letter 967 was not in the case file and/or the activity log was not appropriately documented that the notification was made.¹² Based on our sample results, from a universe of 7,572 taxpayer audit files with statute extensions, we project there were 888 taxpayer audit files that did not contain documentation to support that the taxpayers' representatives were provided with the required notifications.¹³

We considered the notification sufficient if any of the required documentation appeared to have been given to the taxpayers or a log entry to that effect was found in the related taxpayer audit files. The fact that we could not identify the required documentation in the audit file does not mean the taxpayers and/or their representatives were not properly notified of their rights. However, based upon the information available to us, we could not determine if the taxpayers or their representatives were properly notified of their rights in accordance with IRS internal procedures. Taxpayers may be adversely affected if the IRS does not follow requirements to notify both the taxpayers and their representatives of the taxpayers' rights related to statute extensions.

¹⁰ The statistically valid sample had an error rate of 5.380 percent and a 90 percent confidence interval between 12.80 percent (lower limit) and 30.50 percent (upper limit). The rate used for projecting to the population is 21.65 percent, which is explained in Appendix IV.

¹¹ The point estimate projection is based on a two-sided 90 percent confidence interval. We are 90 percent confident that the point estimate is between 969 and 2,309 taxpayer audit files that did not contain proper documentation. See Appendix IV for additional details.

¹² The statistically valid sample had an error rate of 4.126 percent and a 90 percent confidence interval between 4.94 percent (lower limit) and 18.51 percent (upper limit). The rate used for projecting to the population is 11.73 percent, which is explained in Appendix IV.

¹³ The point estimate projection is based on a two-sided 90 percent confidence interval. We are 90 percent confident that the point estimate is between 374 and 1,402 taxpayer audit files that did not contain proper documentation. See Appendix IV for additional details.



*Fiscal Year 2019 Statutory Audit of Compliance
With Notifying Taxpayers of Their Rights When
Requested to Extend the Assessment Statute*

Appendix I

Detailed Objective, Scope, and Methodology

Our overall audit objective was to determine whether the IRS complied with I.R.C. § 6501(c)(4)(B), which requires that the IRS provide notice to taxpayers of their rights to decline to extend the assessment statute of limitations or to request that any extension be limited to a specific period of time or specific issues. To accomplish this objective, we:

- I. Determined whether taxpayers and their designated representatives are being notified of their rights when the IRS requests an extension of the assessment statute.
 - A. Reviewed the IRM and consulted with IRS officials to determine if there were any changes to existing policies and procedures for processing requests to extend the assessment statute of limitations since our last audit.¹
 - B. Identified a universe of 7,572 taxpayer audit files from the combined Individual Master File (IMF) and Business Master File (BMF) with closed examinations for which the assessment statute was extended and the examination subsequently closed.² The period covered IMF and BMF taxpayer audit files for which the assessment statute was extended between October 1, 2017, and September 30, 2018.
 1. Analyzed the universe of 7,572 taxpayer audit files and determined that all four business operating divisions were represented in our population. Additionally, we determined the types and volume of tax return forms represented in the total population of 7,572 taxpayer audit files that met our sampling criteria.
 2. Validated the IMF and the BMF data by examining a judgmental sample of 30 (15 from each extract) taxpayer audit files.³ This judgmental sample was used for data validation and not for projecting or reporting results. The validation test results demonstrated that the data extracts were reliable and could be used to meet the objective of this audit.
 3. Developed a statistical sampling plan using a 90 percent confidence level, an 8.4 percent expected error rate, and a ± 6 percent precision to identify a statistical sample size of 60 taxpayer audit files. It was necessary to screen 116 audit files to meet the designed sample size of 60. A statistical sample was taken in order to

¹ IRM 25.6.22 (Mar. 26, 2019).

² The IMF is the IRS database that maintains transactions or records of individual tax accounts. The BMF is the IRS database that consists of Federal tax-related transactions and accounts for businesses. These include employment taxes, income taxes on business, and excise taxes.

³ A judgmental sample is a nonprobability sample, the results of which cannot be used to project to the population.



*Fiscal Year 2019 Statutory Audit of Compliance
With Notifying Taxpayers of Their Rights When
Requested to Extend the Assessment Statute*

estimate the number of taxpayers in the universe for which taxpayer rights were potentially affected.

4. Used RAT-STATS to select a sample of 60 taxpayer audit files from the universe identified in Step I.B.⁴ We selected more than our sample of 60 taxpayer audit files in the event that some of the files received were incomplete, *e.g.*, did not include all related tax years, audit file history notes, *etc.*, which would prevent us from performing our review of such files. We screened 116 of the taxpayer audit files received. Of those 116 taxpayer audit files, we identified 60 complete taxpayer audit files that had statute extensions with the taxpayer's written consent.
- C. Reviewed the sample of 60 taxpayer audit files and related audit files for the necessary documentation to determine whether taxpayers and their representatives were properly notified of their rights regarding assessment statute extensions. We then discussed exceptions with the appropriate business unit coordinator to obtain agreement to the facts.
1. Projected our sample results to the universe of 7,572 taxpayer audit files from which we selected our sample to identify the number of taxpayer audit files that potentially did not contain documentation to support that the taxpayers or taxpayers' representatives were properly notified of the taxpayers' rights when assessment statutes were extended.⁵ TIGTA's contracted statistician reviewed our methodology and projections.

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 policies, procedures, and practices used by the Office of Appeals, the Large Business and International Division, the Small Business/Self-Employed Division, the Tax Exempt and Government Entities Division, and the Wage and Investment Division as they relate to notifying taxpayers and their designated third-party representatives of their rights to decline to extend the assessment statute of limitations or request that any extension be limited to a specific period of time or specific issues. We evaluated these controls by reviewing applicable IRM sections and documentation, interviewing management from these divisions, and reviewing a statistical sample of 60 taxpayer audit files.

⁴ The Office of Inspector General for the Department of Health and Human Services, Regional Advanced Techniques Staff (RATS) in San Francisco, California, initially developed the RAT-STATS statistical software package.

⁵ See Appendix IV for an explanation.



*Fiscal Year 2019 Statutory Audit of Compliance
With Notifying Taxpayers of Their Rights When
Requested to Extend the Assessment Statute*

Appendix II

Major Contributors to This Report

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David Guerra, Senior Auditor
Antony Shang, Senior Auditor



*Fiscal Year 2019 Statutory Audit of Compliance
With Notifying Taxpayers of Their Rights When
Requested to Extend the Assessment Statute*

Appendix III

Report Distribution List

Commissioner, Large Business and International Division
Commissioner, Small Business/Self-Employed Division
Commissioner, Tax Exempt and Government Entities Division
Commissioner, Wage and Investment Division
Chief, Appeals
Chief Counsel
Assistant Deputy Commissioner (Government Entities/Shared Services)
Director, Communications and Liaison, Wage and Investment Division
Director, Employee Plans, Tax Exempt and Government Entities Division
Director, Exam Policy, Small Business/Self-Employed Division
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Director, Exempt Organizations, Tax Exempt and Government Entities Division
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Director, Enterprise Audit Management



*Fiscal Year 2019 Statutory Audit of Compliance
With Notifying Taxpayers of Their Rights When
Requested to Extend the Assessment Statute*

Appendix IV

Sampling and Case Review Methodology

Methodology used to identify the universe and sample cases

To determine the number of taxpayer audit files for which taxpayers were requested to extend the assessment statute of limitations, we identified 7,572 taxpayer audit files from the combined universe of IMF and BMF closed taxpayer audit files in which the assessment statute was extended and the examination subsequently closed.¹ The period covered IMF and BMF taxpayer audit files for which the assessment statute was extended between October 1, 2017, and September 30, 2018. Figure 1 shows that the majority of these consents were obtained for Forms 1040, *U.S. Individual Income Tax Return*, followed by Forms 1120, *U.S. Corporation Income Tax Return*; Forms 941, *Employer's QUARTERLY Federal Tax Return*; Forms 1065, *U.S. Return of Partnership Return*; and all other forms.²

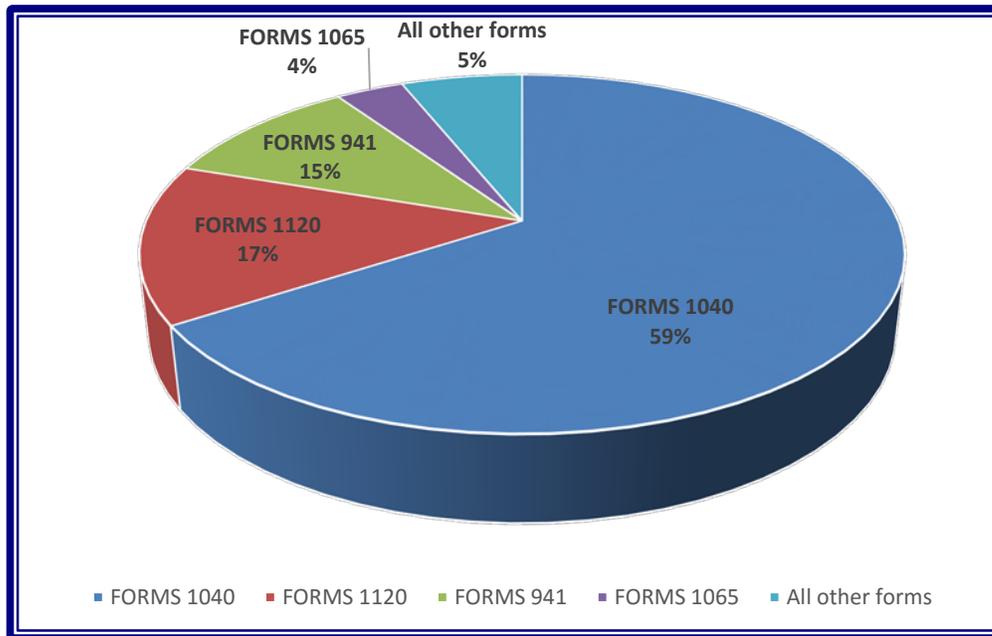
¹ The IMF is the IRS database that maintains transactions or records of individual tax accounts. The BMF is the IRS database that consists of Federal tax-related transactions and accounts for businesses. These include employment taxes, income taxes on business, and excise taxes.

² The remaining forms in "All Other Forms" include forms such as Form 5330, *Return of Excise Taxes Related to Employee Benefit Plans*; Form 2290, *Heavy Highway Vehicle Use Tax Return*; Form 1042, *Annual Withholding Tax Return*; Form 1041, *U.S. Income Tax Return for Estates and Trusts*; Form 990, *Return Organization Exempt from Income Tax Return*; Form 990-PF, *Private Foundation or §4947(a)(1) Non-Exempt Charitable Trust Tax Return*; Form 990-T, *Exempt Organization Business Income Tax Return*; Form 945, *Annual Return Of Withheld Federal Income Tax*; Form 940, *Employee Federal Unemployment Tax Return*; Form 720, *Quarterly Federal Excise Tax Return*; and Form 709, *U.S. Gift Tax Return*.



*Fiscal Year 2019 Statutory Audit of Compliance
With Notifying Taxpayers of Their Rights When
Requested to Extend the Assessment Statute*

Figure 1: Percentage of Extensions by Form



Source: Analysis of IMF and BMF records for FY 2018.

Methodology used to identify noncompliance with IRS internal procedures for notification of taxpayers

To determine the number of taxpayer audit files for which taxpayers were requested to extend the assessment statute of limitations, we identified a universe of 7,572 taxpayer audit files, which consisted of two strata: IMF (4,452) and BMF (3,120) closed taxpayer audit files for which the assessment statute was extended and the examination subsequently closed. The period covered IMF and BMF taxpayer audit files for which the assessment statute was extended between October 1, 2017, and September 30, 2018. We used a 90 percent confidence level, an 8.4 percent expected error rate, and a ± 6 percent precision to determine our sample size of 60 taxpayer audit files, which consisted of 35 IMF and 25 BMF taxpayer audit files.

We reviewed the sample of 60 taxpayer audit files and identified 13 taxpayer audit files (seven IMF and six BMF audit files) that did not contain documentation to show that the taxpayers were properly informed of their rights. The range of lower and upper limits was calculated using an error rate of 5.380 percent and a 90 percent confidence interval between 12.80 percent (lower limit) and 30.50 percent (upper limit). Based on this, we projected to the general population of all 7,572 audit files, and estimated that there were 1,639 audit files in which taxpayers were not properly notified of their rights when the assessment statutes were extended. We are 90 percent confident that the range of procedural errors is between 969 and 2,309 taxpayer audit files.



*Fiscal Year 2019 Statutory Audit of Compliance
With Notifying Taxpayers of Their Rights When
Requested to Extend the Assessment Statute*

Methodology used to identify noncompliance with IRS internal procedures for notification of taxpayer representatives

We reviewed the same sample of 60 taxpayer audit files and identified 45 taxpayer audit files that contained an authorization for a third party to represent the taxpayer before the IRS. Although we were able to determine that there were 45 taxpayer representatives in our sample of 60 taxpayer audit files, we were unable to determine the true number of taxpayer representatives in our sampled population of 7,572 taxpayer audit files with statute extensions. Of the 60 taxpayer audit files reviewed, seven (11.7 percent) audit files showed no documentation to support that the employees provided the representatives with a copy of the written communications provided to the taxpayers.

The range of the lower and upper limits was calculated using an error rate of 4.126 percent and a 90 percent confidence interval between 4.94 percent (lower limit) to 18.51 percent (upper limit). Based on this, we projected to the general population of all 7,572 audit files, and estimated that 888 audit files in which the taxpayer was represented by an authorized representative were noncompliant. The 90 percent confidence interval for this projection is 374 to 1,402 audit files.



*Fiscal Year 2019 Statutory Audit of Compliance
With Notifying Taxpayers of Their Rights When
Requested to Extend the Assessment Statute*

Appendix V

*Prior Reports on Compliance With
Requests to Extend the Assessment Statute*

1. TIGTA, Ref. No. 2018-30-059, *Fiscal Year 2018 Statutory Audit of Compliance With Notifying Taxpayers of Their Rights When Requested to Extend the Assessment Statute* (Aug. 2018).
2. TIGTA, Ref. No. 2017-30-047, *Fiscal Year 2017 Statutory Audit of Compliance With Notifying Taxpayers of Their Rights When Requested to Extend the Assessment Statute* (July 2017).
3. TIGTA, Ref. No. 2016-30-081, *Fiscal Year 2016 Statutory Audit of Compliance With Notifying Taxpayers of Their Rights When Requested to Extend the Assessment Statute* (Aug. 2016).
4. TIGTA, Ref. No. 2015-30-071, *Fiscal Year 2015 Statutory Audit of Compliance With Notifying Taxpayers of Their Rights When Requested to Extend the Assessment Statute* (Aug. 2015).
5. TIGTA, Ref. No. 2014-30-066, *Fiscal Year 2014 Statutory Audit of Compliance With Notifying Taxpayers of Their Rights When Requested to Extend the Assessment Statute* (Aug. 2014).
6. TIGTA, Ref. No. 2013-30-071, *Fiscal Year 2013 Statutory Audit of Compliance With Notifying Taxpayers of Their Rights When Requested to Extend the Assessment Statute* (July 2013).
7. TIGTA, Ref. No. 2012-30-102, *Fiscal Year 2012 Statutory Audit of Compliance With Notifying Taxpayers of Their Rights When Requested to Extend the Assessment Statute* (Sept. 2012).
8. TIGTA, Ref. No. 2011-30-055, *Fiscal Year 2011 Statutory Audit of Compliance With Notifying Taxpayers of Their Rights When Requested to Extend the Assessment Statute* (June 2011).
9. TIGTA, Ref. No. 2010-30-103, *Fiscal Year 2010 Statutory Audit of Compliance With Notifying Taxpayers of Their Rights When Requested to Extend the Assessment Statute* (Aug. 2010).
10. TIGTA, Ref. No. 2009-30-113, *Fiscal Year 2009 Statutory Audit of Compliance With Notifying Taxpayers of Their Rights When Requested to Extend the Assessment Statute* (Aug. 2009).



*Fiscal Year 2019 Statutory Audit of Compliance
With Notifying Taxpayers of Their Rights When
Requested to Extend the Assessment Statute*

Appendix VI

Audit Review Results by Division

Noncompliance With IRS Internal Procedural Requirements to Notify Taxpayers and Their Representatives of Taxpayer Rights	Division¹					Total
	Appeals	LB&I	SB/SE	TE/GE	W&I	
Noncompliance With Requirement to Notify Taxpayers	1	5	7	0	0	13
Noncompliance With Requirements to Notify Taxpayer Representatives	1	1	5	0	0	7
Number of Taxpayer Audit Files Reviewed	4	19	35	0	2	60 ²

¹ Office of Appeals, Large Business and International (LB&I) Division, Small Business/Self-Employed (SB/SE) Division, Tax Exempt and Government Entities (TE/GE) Division, and Wage and Investment (W&I) Division.

² Of the 60 taxpayer audited files reviewed, 45 taxpayer audited files contained an authorization for a third party to represent the taxpayer before the IRS.



Appendix VII

Error Rates for Noncompliance With Internal Revenue Service Procedures for Notifying Taxpayers and Their Representatives

As noted in the report, the IRS is in compliance with statutory requirements and is providing taxpayers and taxpayers' representatives with notice of the taxpayers' rights when applicable. In addition, the IRS's noncompliance with internal procedures has increased with notifying taxpayers. Specifically, for our FY 2019 review, we reviewed 60 audit case files and found evidence that 13 (21.6 percent) taxpayers were not properly notified, which is up from 16.7 percent in our FY 2018 review, as shown in Figure 1. As for the IRS's compliance with notifying the taxpayers' representatives, we reviewed the 60 audit case files and found seven (11.7 percent) taxpayer representatives were not properly notified, which increased slightly from the FY 2018 review, as shown in Figure 1.

Figure 1: Trend Analysis of Error Rates From Prior TIGTA Reviews

