

# TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION



## **Tax Compliance Checks for Federal Employment Suitability Have Improved, but There Are Still Some Inconsistencies**

July 9, 2020

Reference Number: 2020-10-035

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# HIGHLIGHTS: Tax Compliance Checks for Federal Employment Suitability Have Improved, but There Are Still Some Inconsistencies



Final Audit Report issued on July 9 2020  
Reference Number 2020-10-035

## Why TIGTA Did This Audit

This audit was initiated to identify the types of suitability tax compliance checks the IRS conducts of its employees, contractor employees, and applicants for employment with other Federal agencies to determine whether the tax checks are appropriate for their purpose, comply with applicable authorities, and use consistent definitions and criteria for tax compliance.

## Impact on Taxpayers

Federal employees have a responsibility to satisfy in good faith their financial obligations, especially Federal, State, and local taxes imposed by law. As the agency responsible for administering Federal tax law, the IRS performs a variety of tax compliance checks for various purposes and customers. Using different standards or definitions of tax compliance across these tax checks would be contrary to the IRS's responsibility for fair and equitable administration of the Internal Revenue Code.

## What TIGTA Found

While the IRS Human Capital Office has initiated the One Tax Compliance Program with a goal of ensuring a uniform tax check policy and definition of tax compliance, the IRS has not yet fully implemented the Federal requirements to implement consistent standards for determining suitability for Government employment. TIGTA found key differences in the criteria used for performing tax checks for customers external to the IRS and the criteria used for employees and contractors employed internally at the IRS.

External tax checks performed by the IRS consider tax information for certain business taxes for sole proprietors (excise and employment taxes) as well as individual taxes, while internal tax checks for employees and contractor employees only consider individual taxes. Additionally, the external tax checks consider up to six years of filing history, while the IRS internal tax checks only consider three years. The Human Capital Office plans to implement tax checks with consistent standards by July 2020. This transition will help to bring the IRS into compliance with Federal requirements.

Subject of Tax Check	Includes Check of Individual (Form 1040) Taxes	Includes Check of Employment/Excise Taxes	Tax Return Filing History
 IRS Employees (New Hires) and IRS Contractors	✓	✗	3 years
 IRS Chief Counsel Employees (New Hires)	✓	✗	3 years
 IRS Employees and Chief Counsel Employees	✓	✗	N/A
 Employees and Contractors of External Federal Agencies	✓	✓	4 to 6 years

## What TIGTA Recommended

TIGTA recommended that the Human Capital Officer work with responsible IRS business units, including the Office of Chief Counsel, to align IRS suitability tax compliance checks to ensure consistent policies, procedures, and standards that reflect compliance with the Internal Revenue Code and Federal requirements.

The IRS agreed with our recommendation and plans to take corrective actions such as developing a tax compliance check definition and publishing tax check processes in associated Internal Revenue Manual sections.



TREASURY INSPECTOR GENERAL  
FOR TAX ADMINISTRATION

**U.S. DEPARTMENT OF THE TREASURY**

**WASHINGTON, D.C. 20220**

July 9, 2020

**MEMORANDUM FOR:** COMMISSIONER OF INTERNAL REVENUE

**FROM:** Michael E. McKenney  
Deputy Inspector General for Audit

**SUBJECT:** Final Audit Report – Tax Compliance Checks for Federal Employment Suitability Have Improved, but There Are Still Some Inconsistencies (Audit # 201910008)

This report presents the results of our review to identify the types of suitability tax compliance checks the Internal Revenue Service (IRS) conducts of its employees, contractor employees, and applicants for employment with other Federal agencies to determine whether the tax checks are appropriate for their purpose, comply with applicable authorities, and use consistent definitions and criteria for tax compliance. This review is part of our Fiscal Year 2020 Annual Audit Plan and addresses the major management and performance challenge of *Improving Tax Reporting and Payment Compliance*.

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

Copies of this report are also being sent to the IRS managers affected by the report recommendation. If you have any questions, please contact me or Heather M. Hill, Assistant Inspector General for Audit (Management Services and Exempt Organizations).



## Tax Compliance Checks for Federal Employment Suitability Have Improved, but There Are Still Some Inconsistencies

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## Tax Compliance Checks for Federal Employment Suitability Have Improved, but There Are Still Some Inconsistencies

### Background

In June 2008, the President issued Executive Order (EO) 13467, which was amended in January 2017, to ensure Governmentwide uniformity and fairness for applicants, appointees, and employees when determining suitability for employment in the Federal Government.<sup>1</sup>

Suitability refers to identifiable character traits and conduct sufficient to decide whether an individual is likely or not likely to be able to carry out the duties of a Federal job with appropriate integrity, efficiency, and effectiveness. Suitability is distinguishable from a person's ability to fulfill the qualification requirements of a job as

measured by experience, education, knowledge, and skills. According to Title 5 of the Code of Federal Regulations, *Standards of Ethical Conduct for Employees of the Executive Branch*, Federal employees have a responsibility to satisfy in good faith their obligations as citizens.<sup>2</sup> This includes all financial obligations, especially Federal, State, and local taxes imposed by law.



Federal employees have a responsibility to pay their Federal, State, and local taxes.

As a result of EO 13467, the Office of Personnel Management revised the Federal Investigative Standards in December 2008 to align security and suitability investigations using consistent standards.<sup>3</sup> The Federal Investigative Standards were updated in December 2012 to streamline background investigations across the Federal Government.<sup>4</sup> One of the requirements related to suitability determinations includes steps to consider the subject's Federal tax compliance. Therefore, Federal agencies requiring a suitability determination for a background investigation would request a tax compliance check on the applicant through the Internal Revenue Service (IRS). In order to comply with EO 13467, the IRS should be using consistent criteria to ensure that suitability tax checks comply with these requirements.

Within the IRS, multiple business units complete tax compliance checks for different purposes and customers, such as tax checks performed on tax return preparers, entities applying for IRS contracts, and individuals seeking Federal employment.<sup>5</sup> Some of these tax checks are required

<sup>1</sup> EO 13467, *Reforming Processes Related to Suitability for Government Employment, Fitness for Contractor Employees, and Eligibility for Access to Classified National Security Information* (June 2008). In January 2017, EO 13764 amended EO 13467 and retitled part 2, *Vetting Enterprise, Reciprocity, Continuous Performance Improvement, and Governance*. EO 13764, *Amending the Civil Service Rules, Executive Order 13488, and Executive Order 13467 to Modernize the Executive Branch-Wide Governance Structure and Processes for Security Clearances, Suitability, and Fitness for Employment, and Credentialing, and Related Matters* (January 2017).

<sup>2</sup> Code of Federal Regulations, Title 5, Section (§) 2635 (January 2017).

<sup>3</sup> Office of the Director of National Intelligence and Office of Personnel Management, *Federal Investigative Standards*, (Dec. 2008)

<sup>4</sup> Office of the Director of National Intelligence and Office of Personnel Management, *Federal Investigative Standards*, (Dec. 2012)

<sup>5</sup> This review focused on tax checks used to determine employment suitability, performed on IRS employees, IRS contractor employees, and individuals seeking employment at other Federal agencies. A recent Treasury Inspector General for Tax Administration (TIGTA) report reviewed suitability checks on tax preparers participating in IRS programs and found inconsistencies. TIGTA, Ref. No. 2020-40-005, *Improvements Are Needed to Ensure That Consistent Suitability Checks Are Performed for Participation in Internal Revenue Service Programs* (Nov. 2019).



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by IRS internal policy and procedures,<sup>6</sup> while others are conducted to comply with external laws and regulations.<sup>7</sup> This audit identified the following seven suitability tax checks performed by the IRS, related to initial or continuing Federal employment:

- *IRS Employee New Hire*. The IRS Human Capital Office (HCO) requests a tax compliance check as part of the suitability adjudication when hiring an individual to work for the IRS.<sup>8</sup>
- *Office of Chief Counsel New Hire*. The Office of Chief Counsel performs a tax compliance check as part of the suitability adjudication when hiring an individual to work for the Office of Chief Counsel.
- *IRS Employee Tax Check Monitoring*. The HCO conducts monthly tax checks during the course of employment to determine continued tax compliance.
- *Tax Check Award Suitability*. The HCO conducts tax checks to determine eligibility prior to issuing employee awards/bonuses.<sup>9</sup>
- *Contractor Employee Background Investigation*. The HCO performs a tax compliance check as part of the suitability adjudication when hiring an individual to work as a contractor employee for the IRS.
- *Contractor Employee Compliance Monitoring*. The HCO conducts periodic tax checks (at least once per year) during the course of employment to determine continued tax compliance.
- *Tax Check Service*. The IRS Office of Privacy, Governmental Liaison, and Disclosure (PGLD) conducts tax checks through agreements with external Federal agencies for individuals required to verify tax compliance to support their suitability assessments.

Figure 1 provides an overview of these tax checks and how they are performed, including who requests and conducts each tax check and the tool or process that is currently used to conduct the tax check.

<sup>6</sup> Internal Revenue Manual 10.23.2.2.2, *Eligibility Criteria* (April 2019), and Internal Revenue Manual 10.23.3.6, *Investigative Tiers* (May 2019).

<sup>7</sup> Consolidated Appropriations Act of 2016, Pub. L. No. 114-113, § 110, 129 Stat. 2430.

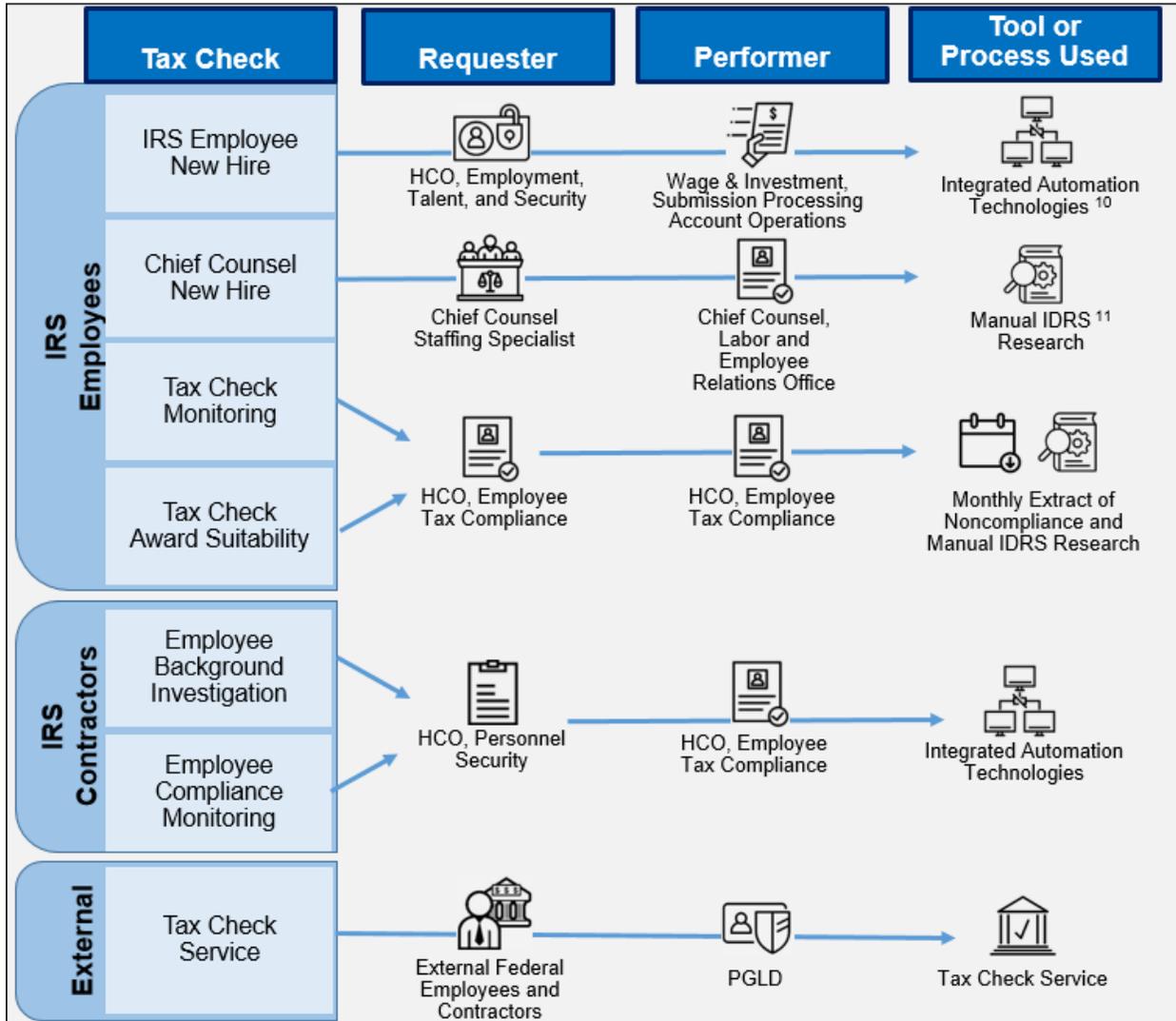
<sup>8</sup> As defined in EO 13764, "Adjudication" means the evaluation of pertinent data in a background investigation, as well as any other available information that is relevant and reliable, to determine whether a covered individual is (i) suitable for Government employment, (ii) eligible for logical and physical access, (iii) eligible for access to classified information, (iv) eligible to hold a sensitive position, or (v) fit to perform work for or on behalf of the Government as a Federal employee, contractor, or non-appropriated fund employee.

<sup>9</sup> Since Fiscal Year 2016, Congress has included language in each annual appropriations bill prohibiting the IRS from using appropriated funds to pay a bonus or award to employees without first conducting a Federal tax compliance check. A fiscal year is 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.



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**Figure 1: Workflow of Suitability Tax Compliance Checks  
Related to Initial or Continuing Federal Employment**



Source: TIGTA interviews with HCO, PGLD, and Office of Chief Counsel representatives and TIGTA's analysis of relevant IRS policies and desk guides.

The PGLD office is the IRS business owner of the Federal Investigative Standards – Tax Check Service, which is an information technology system that was created to help modernize and align all IRS tax check processes. It consolidates tax account information from several sources including the Individual Master File and the Business Master File, which store tax filing and payment history related to individual tax filings and business tax filings, respectively. The Tax Check Service is a component of this system and is currently used primarily to conduct tax checks for individuals applying to external Federal agencies. Once the filing and payment history is consolidated, the Tax Check Service identifies tax compliance failures and generates a

<sup>10</sup> Integrated Automation Technologies is a desktop productivity enhancing tool that simplifies taxpayer account processing by assisting the user with the Integrated Data Retrieval System (IDRS) research and input.

<sup>11</sup> IDRS is an IRS computer system capable of retrieving or updating stored information. It works in conjunction with a taxpayer's account records.



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tax compliance report. The tax compliance report identifies various compliance issues and indicates, for example, if an individual filed taxes late, had outstanding taxes due, or was assessed a penalty. During our review, HCO and IRS Office of Chief Counsel representatives stated that they are working to transition the IRS internal tax checks to use a part of this service, called the Tax Compliance Check Service, as the tool to conduct their new employee and contractor employee initial and recurring suitability tax checks.

In early Fiscal Year 2019, the IRS created a working group under the HCO, titled the One Tax Compliance Program, with the goal of implementing a uniform tax check policy that is consistent with the IRS standard definition of tax compliance under the tax code. The working group was also tasked with identifying differences in the criteria, systems, and data used to evaluate an individual's timely filing and payment of tax and penalties in the current tax check programs.

### **Results of Review**

The IRS's current internal and external suitability tax compliance checks are inconsistent. However, the IRS is working to develop consistent criteria to perform tax checks. Specifically, the IRS stated that it has made progress in achieving consensus across responsible business units to align the definitions of tax return filing criteria and tax payment criteria in an effort to eliminate existing differences in the suitability tax checks. Although the IRS has made progress in closing these gaps, some inconsistencies remain.

### **Internal and External Suitability Tax Compliance Checks Are Inconsistent**

The IRS considers less information when determining tax compliance for internal applicants, employees, and contractor employees than for tax checks performed for individuals applying to other Federal agencies. Conducting tax checks is one of the responsibilities of the IRS under Title 26 of the United States Code. One of the requirements of EO 13467 is:

*The executive branch policies and procedures relating to suitability shall be aligned using consistent standards to provide fair treatment to those upon whom the Federal Government relies to conduct our Nation's business and protect national security.*

Because tax checks use for suitability determinations do not use consistent definitions, the IRS has not fully implemented the requirements of EO 13467 to implement consistent suitability standards. The IRS defines tax compliance as filing all required tax returns by the due date and paying all required taxes and penalties by the due date. An appropriate tax check result should include the key components of tax compliance as defined by the IRS. Figure 2 outlines the criteria currently used for internal and external suitability tax checks.



## Tax Compliance Checks for Federal Employment Suitability Have Improved, but There Are Still Some Inconsistencies

**Figure 2: Comparison of Criteria Used for External and Internal Suitability Tax Checks**

Subject of Tax Check	Tool Used	Includes Check of Individual (Form 1040) Taxes	Includes Check of Employment/Excise Taxes	Tax Return Filing History
 IRS Employees (New Hires) <sup>12</sup> and IRS Contractors <sup>13</sup>	 Integrated Automation Technologies	✓	✗	3 years
 IRS Chief Counsel Employees (New Hires) <sup>12</sup>	 Manual IDRS Research	✓	✗	3 years
 IRS Employees and Chief Counsel Employees <sup>14</sup>	 Monthly Extract of Noncompliance	✓	✗	N/A
 Employees and Contractors of External Federal Agencies <sup>13</sup>	 Tax Check Service	✓	✓	4 to 6 years

Source: TIGTA analysis of IRS criteria used for different suitability tax checks. Note: Form 1040 is the U.S. Individual Income Tax Return and N/A means Not Applicable.

During this review, TIGTA found the following key differences in the criteria used by the Tax Check Service primarily used for customers external to the IRS and the criteria used for employees and contractors employed internally at the IRS:

- The tax checks performed primarily for customers external to the IRS consider tax information from the Business Master File and from the Individual Master File, while the IRS internal tax checks for employees and contractor employees only check information from the Individual Master File. The Business Master File is an IRS database that consists of Federal tax transactions and accounts for businesses. These include employment taxes, income taxes on businesses, and excise taxes for sole proprietorships. The Individual Master File is an IRS database that provides information about individual tax accounts.
- The external tax checks consider four years of filing history, unless there has been a notice on the taxpayer's account (*e.g.*, notice of failure to file), in which case up to

<sup>12</sup> Initial applicants.

<sup>13</sup> Initial applicants and recurring monitoring.

<sup>14</sup> Recurring monitoring.



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six years of filing history will be considered. The IRS internal tax checks of new hires and contractor employees currently only considers three years of filing history.

The IRS informed us that a lack of sufficient coordination when implementing tax check standards among various IRS business units most likely contributed to the current difference in criteria used to determine tax compliance. However, EO 13467 was a driving factor in the One Tax Compliance Program, and the IRS has stated that it developed the Federal Investigative Standards – Tax Check Service to automate tax compliance checks and respond to the EO impact on the existing tax compliance checks. The HCO initiated the One Tax Compliance Program to ensure a uniform tax check policy and one definition of tax compliance. Representatives from the HCO have stated that they plan to implement suitability tax checks with consistent standards by transitioning to the Tax Compliance Check Service by July 2020, and representatives from the Office of Chief Counsel stated that they will align their tax checks and transition to use the PGLD office’s Tax Check Service by May 2020. This transition will help to bring the IRS into compliance with EO 13467 requirements.

Until the standards are made consistent, the IRS could potentially hire an individual with outstanding Federal tax liability related to excise and employment taxes. Hiring Federal employees or contractor employees with tax debt or tax filing issues is contrary to the IRS’s mission to ensure compliance with tax laws. Additionally, taxpayers may be treated differently when applying for a job with another Federal agency, which represents inequitable treatment. This is contrary to requirements under EO 13467 and the IRS’s responsibility of fair and equitable administration of the Internal Revenue Code.



**Inconsistent standards could lead to the IRS hiring someone with an outstanding Federal tax liability.**

**Recommendation 1:** The Human Capital Officer should work with responsible IRS business units, including the Office of Chief Counsel, to align IRS suitability tax compliance checks to ensure consistent policies, procedures, and standards that reflect compliance with the Internal Revenue Code and EO 13467 requirements.

**Management’s Response:** The IRS agreed with our recommendation and plans to take corrective actions such as developing a tax compliance check definition and publishing tax check processes in associated Internal Revenue Manual sections.



## Tax Compliance Checks for Federal Employment Suitability Have Improved, but There Are Still Some Inconsistencies

# Appendix I

## Detailed Objective, Scope, and Methodology

Our overall objective was to identify the types of suitability tax compliance checks the IRS conducts of its employees, contractor employees, and applicants with other Federal agencies to determine whether the tax checks are appropriate for their purpose, comply with applicable authorities, and used consistent definitions and criteria for tax compliance. To accomplish this objective, we:

- Determined applicable laws, regulations, and policies for conducting suitability tax compliance checks.
- Determined the suitability tax compliance checks completed by the IRS.
- For the suitability tax compliance checks identified, determined if the definitions and criteria used differed, and if so, how.

### Performance of This Review

This review was performed at the HCO in Washington, D.C., with additional information obtained from the Office of Chief Counsel and the Office of PGLD during the period July 2019 through January 2020. 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.

Major contributors to the report were Heather M. Hill, Assistant Inspector General for Audit (Management Services and Exempt Organizations); LaToya R. Penn, Director; Seth A. Siegel, Audit Manager; Nathaniel Russell, Lead Auditor; and Paige Krivda, Senior Auditor.

### 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: controls to ensure that the IRS tax checks complied with applicable laws, regulations, and policies. We tested these controls by interviewing IRS management and staff and evaluating the criteria used for different tax checks and comparing that to requirements under relevant executive orders, codes of conduct, and IRS policy.



## Tax Compliance Checks for Federal Employment Suitability Have Improved, but There Are Still Some Inconsistencies

## Appendix II

### Management's Response to the Draft Report



HUMAN CAPITAL OFFICE

DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224

June 8, 2020

MEMORANDUM FOR Michael E. McKenney  
Deputy Inspector General for Audit

FROM:

Robin D. Bailey Jr.  
IRS Human Capital Officer

Robin D. Bailey Jr.  
Digitally signed by Robin D. Bailey Jr.  
Date: 2020.06.08 14:02:45 -0400

SUBJECT:

Draft Audit Report –Tax Compliance Checks for Federal  
Employment and Suitability Have Improved, but There Are Still  
Some Inconsistencies (Audit # 201910008)

Thank you for the opportunity to review the draft report, *Tax Compliance Checks for Federal Employment and Suitability Have Improved, but There Are Still Some Inconsistencies* (Audit # 201910008), dated May 7, 2020. We are committed to conducting suitability tax compliance checks of our employees, contractor employees, and applicants with other Federal agencies that are appropriate for their purpose, complying with applicable authorities and using consistent definitions and criteria for tax compliance.

We agree with TIGTA's finding and recommendation and are already taking action to implement. The IRS will align IRS suitability tax compliance checks to ensure consistent policies, procedures, and standards that reflect compliance with the Internal Revenue Code and EO 13467 requirements.

Attached is a detailed response outlining the corrective action that the Human Capital Office will take to address your recommendation. If you have any questions, please contact me at 202-317-3174, or a member of your staff may contact Julia Caldwell, Director, Workforce Relations Division, at 202-317-6289.

Attachment



## Tax Compliance Checks for Federal Employment Suitability Have Improved, but There Are Still Some Inconsistencies

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Attachment

### **RECOMMENDATION 1:**

The Human Capital Officer should work with responsible IRS business units, including the Office of Chief Counsel, to align IRS suitability tax compliance checks to ensure consistent policies, procedures, and standards that reflect compliance with the Internal Revenue Code and EO 13467 requirements.

### **CORRECTIVE ACTION:**

The Human Capital Office (HCO) agrees to work with IRS business units to include Chief Counsel to align suitability and monitoring tax compliance checks with a Servicewide tax compliance policy and use of a common service. HCO will:

- Develop a tax compliance check definition;
- Publish Servicewide suitability and monitoring tax compliance policy;
- Transition HCO projects conducting tax checks (IRS Employee New Hire, IRS Employee Tax Check Monitoring (to include Office of Chief Counsel), Tax Check Award Suitability, Contractor Employee Background Investigation, and Contractor Employee Compliance Monitoring) to consume and align with use of the common Tax Compliance Check Service (TCCS);
- Discontinue use of multiple (Integrated Automation Technologies and Reimbursable Accounts System (REACS) extracts) tools to conduct tax checks;
- Retire existing REACS Employee Tax Compliance (ETC) extract programs; and
- Publish a suitability and monitoring tax compliance check process in associated IRM(s).

**IMPLEMENTATION DATE:** 8/15/2021

**Note:** Privacy, Governmental Liaison and Disclosure (PGLD) Federal Investigative Standards – Tax Check Service and Treasury Inspector General Tax Administration (TIGTA) Employee New Hire process have completed transition to TCCS. The Office of Chief Counsel is responsible for the transition of their New Hire process. TIGTA is responsible for the transition of its Employee Tax Compliance Monitoring process.

### **RESPONSIBLE OFFICIAL(S):**

IRS Human Capital Officer

### **CORRECTIVE ACTION(S) MONITORING PLAN:**

We will enter accepted Corrective Actions into the Joint Audit Management Enterprise System (JAMES), monitor progress towards completion on a monthly basis, and upload supporting documentation into JAMES with Form 13872 *Planned Corrective Action (PCA) Status Update for TIGTA/GAO/MW/SD/TAS/REM*.



## Tax Compliance Checks for Federal Employment Suitability Have Improved, but There Are Still Some Inconsistencies

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### Appendix III

#### Abbreviations

EO	Executive Order
HCO	Human Capital Office
IDRS	Integrated Data Retrieval System
IRS	Internal Revenue Service
PGLD	Privacy, Governmental Liaison, and Disclosure
TIGTA	Treasury Inspector General for Tax Administration