

TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION



Fiscal Year 2020 Statutory Audit of Compliance With Notifying Taxpayers of Their Rights When Requested to Extend the Assessment Statute

August 6, 2020

Reference Number: 2020-30-047

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Redaction Legend:

1 = Tax Return/Return Information

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HIGHLIGHTS: Fiscal Year 2020 Statutory Audit of Compliance With Notifying Taxpayers of Their Rights When Requested to Extend the Assessment Statute



Final Audit Report issued on August 6, 2020
Reference Number 2020-30-047

Why TIGTA Did This 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.

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.

What TIGTA Found

TIGTA's review of a statistical sample of 34 closed taxpayer audit files with assessment statute extensions found that the IRS was compliant with Internal Revenue Code Section 6501(c)(4)(B). However, eight 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. Specifically, TIGTA reviewed 27 taxpayer audit files that had authorizations for third-party representation and found that six of the taxpayer audit files did not contain documentation to support that the taxpayers' representatives were provided with the required notifications.

According to IRS management, they have developed and delivered additional training to improve awareness of internal requirements related to notification and documentation. TIGTA will evaluate the effectiveness of the additional training during the Fiscal Year 2021 review.

What TIGTA Recommended

TIGTA made no recommendations in this report. IRS officials were provided an opportunity to review the draft report and did not provide a formal response.



TREASURY INSPECTOR GENERAL
FOR TAX ADMINISTRATION

U.S. DEPARTMENT OF THE TREASURY

WASHINGTON, D.C. 20220

August 6, 2020

MEMORANDUM FOR: COMMISSIONER OF INTERNAL REVENUE

FROM: Michael E. McKenney
Deputy Inspector General for Audit

SUBJECT: Final Audit Report – Fiscal Year 2020 Statutory Audit of Compliance
With Notifying Taxpayers of Their Rights When Requested to Extend
the Assessment Statute (Audit # 202030022)

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 review is part of our Fiscal Year 2020 Annual Audit Plan and addresses the major management and performance challenge of *Taxpayer Protection and 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 a formal response.

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



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Fiscal Year 2020 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 Independent 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 this provision of 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.

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.

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 official. For employment taxes, Form SS-10 is used.



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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.

As of December 2004, 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.

Figure 1: Excerpt of Form 872 – Taxpayer Rights

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).

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

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



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Internal Revenue Manual (IRM) 25.6.22.5.13(1), *Manager's Responsibilities When Signing Consents*.³ Figure 2 shows IRS Official's Signature section.

Figure 2: Excerpt of Form 872 – IRS Official's Signature

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.

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 for Power of Attorney*.⁴ IRS employees are instructed to document in their audit file activity record 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, we reported that previous actions taken by IRS management were not effective to ensure that employees were properly notifying taxpayers of their rights when requesting an extension of the statute of limitations. We recommended that the IRS ensure that management verify that notifications were provided to all taxpayers and authorized representatives. Effective March 26, 2019, the IRS took corrective action on our recommendation and updated the IRM to ensure that management verify that the notification of the taxpayers' rights are provided to all taxpayers and authorized representatives when an extension is requested. Additionally, management will verify the notification was properly documented in the case activity record or on other appropriate forms.

The Treasury Inspector General for Tax Administration (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 twenty-first annual review of the IRS's compliance with the statute extension provisions of the law.⁵

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.

³ IRM 25.6.22.5.13(1) (Mar. 26, 2019).

⁴ Conference and Practice Requirements, Statement of Procedural Rules, Treas. Reg. § 601.506 (2002).

⁵ See Appendix IV for a list of our most recent prior reports issued from FYs 2010 through 2019.



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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.⁶ We reviewed a statistically valid sample of 34 closed taxpayer audit files for cases in which the taxpayers were granted an extension of the statute expiration date.⁷ 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 34 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.

The IRS's People First Initiative provides compliance relief to taxpayers

On March 25, 2020, the IRS announced a variety of ways to help provide relief to taxpayers to reduce the burden due to the COVID-19 pandemic in the People First Initiative.⁸ The IRS Commissioner stated, "The IRS is taking extraordinary steps to help the people of our country. During this difficult time, we want people working together, focused on their well-being, helping each other and others less fortunate."

One of the programs included in the initiative postponed compliance actions during the period April 1 through July 15, 2020. As part of this initiative, the IRS would not take actions to extend the statute of limitations unless the statutory period was set to expire during Calendar Year 2020. However, the IRS will continue to take steps where necessary to protect all applicable statutes of limitations in which the statutes are in jeopardy of expiring.

Our preliminary analysis of all extension requests made by the IRS between April 1 and June 24, 2020, identified 17,971 cases in which the IRS extended the statute of limitations. We will review these cases to determine whether the IRS requested the extension when the statute was set to expire in Calendar Year 2021 or later as part of our FY 2021 review of the IRS's efforts to assist taxpayers with issues arising from the COVID-19 pandemic.

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

⁶ I.R.C. § 6501(c)(4)(B).

⁷ Our sample was selected using a 90 percent confidence level, an expected error rate of 8.4 percent, and a ±6 percent precision.

⁸ IR-2020-59, Mar. 25, 2020.



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to the taxpayer to consent to extend the period for assessment.⁹ IRS employees must also document in the audit 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. From our statistically valid sample of 34 taxpayer audit files, we identified:

- Eight (23.5 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 audit file and the activity log was not appropriately documented that the notification was made.¹⁰ Based on our sample results, from a universe of 6,896 taxpayer audit files with statute extensions, we project there were 1,676 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
- Six (17.6 percent) audit files did not contain documentation to support that the taxpayers' representatives were provided with the required notifications, *i.e.*, Letter 937, Letter 907, or Letter 967 was not in the audit file and the activity log was not appropriately documented that the notification was made.¹² Based on our sample results, from a universe of 6,896 taxpayer audit files with statute extensions, we project there were 1,561 taxpayer audit files that did not contain documentation to support that the taxpayers' representatives were provided with the required notifications.¹³

During our review, 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 their representatives were not notified of the taxpayer's rights. However, based upon the information available to us, we could not determine if the taxpayers or their representatives were properly notified of the taxpayer's rights in accordance with IRS internal procedures.

The IRS could not locate all audit files requested during review

The IRS's Files Department was unable to provide all of the taxpayer audit files requested during our review. We ordered a total of 140 cases between the periods December 16, 2019, through

⁹ IRM 25.6.22.3(2)(b) (Feb. 9, 2018) and IRM 25.6.22.3(2)(b) (Mar. 26, 2019). IRS internal procedures do not require the taxpayer's representative notification package to include Publication 1035.

¹⁰ The statistically valid sample had an error rate of 7.61 percent and a 90 percent confidence interval between 11.79 percent (lower limit) and 36.81 percent (upper limit). The rate used for projecting to the population is 24.30 percent, which is further explained in Appendix II.

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 813 and 2,539 taxpayer audit files that did not contain proper documentation. The error rate reported for FY 2020 cannot be compared to the error rates from prior reports. In prior years, the error rate included cases that did not meet our criteria as part of the sample using a conservative approach. However, following the principles outlined in *Sampling Techniques* (3rd edition) by William Cochran, we will not continue to use these cases in our error rate calculation. See Appendix II for additional details.

¹² The statistically valid sample had an error rate of 8.37 percent and a 90 percent confidence interval between 8.87 percent (lower limit) and 36.40 percent (upper limit). The rate used for projecting to the population is 22.64 percent, which is further explained in Appendix II.

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 612 and 2,510 taxpayer audit files that did not contain proper documentation. See Appendix II for additional details.



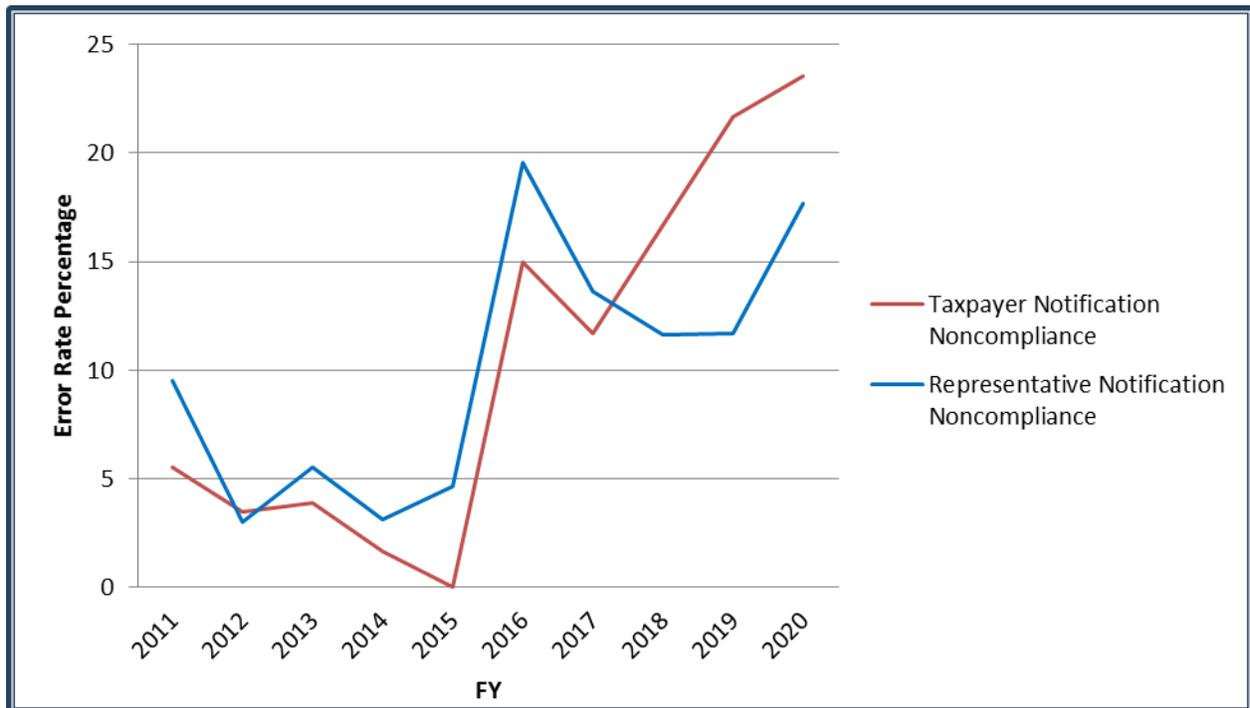
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January 9, 2020.¹⁴ We requested that the IRS provide an explanation for the lapse in processing our audit files requests. The last case we received was on March 11, 2020. We only received 34 (24.3 percent) of the 140 taxpayer audit files requested during this review.¹⁵ When we notified the IRS of our concerns, IRS management could not confirm why the audit files were missing. Although IRS campuses, including the Files Department, closed down nationwide beginning in mid-to-late March due to the COVID-19 pandemic, we requested our sample case files three months before the shutdowns. As such, the IRS had sufficient time to provide the requested case files for our review.

Error rates for noncompliance with IRS procedures for notifying taxpayers and their representatives

The IRS's noncompliance with internal procedures has increased in the past three years with respect to notifying taxpayers and their representatives of the taxpayer's rights when being requested to extend a statute. Specifically, for our FY 2020 review, we reviewed 34 audit files and found evidence that eight (23.5 percent) taxpayers were not properly notified and six (17.6 percent) taxpayer representatives were not properly notified. This is a marked increase in both taxpayers and their representatives not notified in accordance with the IRS's internal procedures. Figure 3 shows the trend analysis of error rates.

Figure 3: Trend Analysis of Error Rates From TIGTA Reviews



Source: TIGTA analysis of the error rate of exception cases.

¹⁴ Thirteen cases were incorrectly coded by the IRS and fell within our population of cases ordered that did not meet the criteria.

¹⁵ Although we did not receive all requested audit files for our sample size, the 34 cases still represent a statistically valid sample with a 90 percent confidence level, an expected error rate of 8.55 percent, and a ± 14.1 percent precision.



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Although the IRM specifically directs IRS employees to document the notification in the case activity record and provide taxpayers with the required letters and also directs management or other authorized officials to verify the notification was properly documented, the IRS continues to have issues complying with its internal procedures. The IRS implemented the internal procedures to ensure that taxpayers are made aware of and are properly notified of their rights. 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 because taxpayers may be unaware that they can refuse to extend the statute, can limit the extension to a certain issue, or limit the time period.

According to IRS management, they have developed additional training modules and workshops to improve awareness of internal requirements related to notification and documentation. These training modules were offered during January and February 2020. We will evaluate the effectiveness of the additional actions taken during FY 2020 during our FY 2021 review.



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Appendix I

Detailed Objective, Scope, and Methodology

The overall audit objective of this review 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 our objective, we:

- Determined whether taxpayers and their designated representatives were advised of their rights when the IRS requests an extension of the assessment statute.
- Reviewed the IRM and other guidelines, as applicable, to determine if there were any changes to existing procedures and practices for notifying taxpayers and their representatives when requesting to extend the assessment statute of limitations since our last audit.
- Selected a sample from our universe of combined Business Master File (BMF) and Individual Master File (IMF) cases in which the IRS's records indicate an assessment statute was extended.¹ TIGTA's contract statistician assisted with developing the sampling plan and projections.
- Reviewed the IRS's inability to locate requested audit files.
- Estimated the potential number of taxpayers and their designated representatives that were not properly notified of their assessment statute extension rights.

Performance of This Review

This review was performed with information obtained from the Independent 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 November 2019 through June 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 Matthew A. Weir, Assistant Inspector General for Audit (Compliance and Enforcement Operations); Glen Rhoades, Director; Linna Hung, Director; Curtis Kirschner, Acting Director; Michele Jahn, Audit Manager; David Guerra, Lead Auditor; Malissa Livingston, Senior Auditor.

¹ See Appendix II for our sampling and case review methodology. 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.



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Validity and Reliability of Data From Computer-Based Systems

We evaluated the data by performing tests to assess the reliability of data obtained from the IRS's IMF and BMF systems. We evaluated the data by running queries on the population to ensure that the data met our criteria and no information was missing or incomplete. 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 policies, procedures, and practices used by the Independent 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 34 taxpayer audit files.



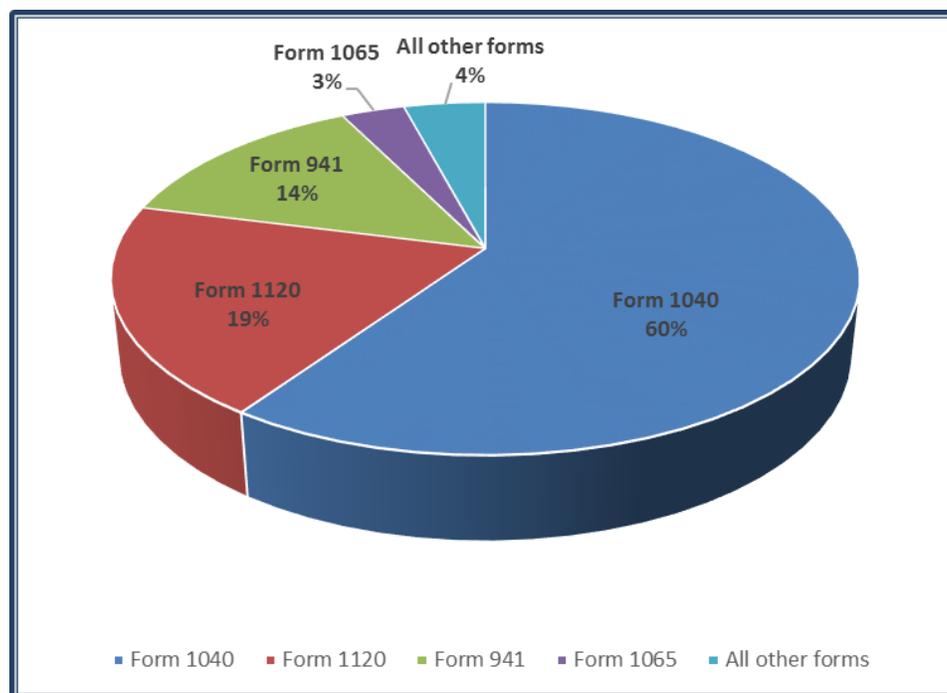
Appendix II

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 6,896 closed taxpayer audit files from the combined universe of IMF and BMF cases in which the assessment statute was extended and the examination subsequently closed. The period covered taxpayer audit files for which the assessment statute was extended between October 1, 2018, and September 30, 2019. 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 Income*; and all other forms.¹

Figure 1: Percentage of Extensions by Form



Source: Analysis of IMF and BMF records in which the assessment statute of limitations was extended between October 1, 2018, and September 30, 2019.

¹ 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 for U.S. Source Income of Foreign Persons*; Form 1041, *U.S. Income Tax Return for Estates and Trusts*; Form 990, *Return of Organization Exempt From Income Tax*; Form 990-PF, *Return of Private Foundation or Section 4947(a)(1) Trust Treated as Private Foundation*; Form 990-T, *Exempt Organization Business Income Tax Return (and proxy tax under section 6033(e))*; Form 945, *Annual Return of Withheld Federal Income Tax*; Form 940, *Employer's Annual Federal Unemployment (FUTA) Tax Return*; Form 720, *Quarterly Federal Excise Tax Return*; and Form 709, *United States Gift (and Generation-Skipping Transfer) Tax Return*.



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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 6,896 taxpayer audit files, which consisted of two strata: IMF (4,111) and BMF (2,785) 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, 2018, and September 30, 2019. 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 34 taxpayer audit files, which consisted of 22 IMF and 12 BMF taxpayer audit files.

We reviewed the sample of 34 taxpayer audit files and identified eight taxpayer audit files (four IMF and four 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 7.61 percent and a 90 percent confidence interval between 11.79 percent (lower limit) and 36.81 percent (upper limit). Based on this, we projected to the general population of all 6,896 audit files, and estimated that there were 1,676 (24.30 percent) audit files in which taxpayers were not properly notified of their rights when the assessment statutes were extended.² We are 90 percent confident that the range of procedural errors is between 813 and 2,539 taxpayer audit files.

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

We reviewed the same sample of 34 taxpayer audit files and identified 27 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 27 taxpayer representatives in our sample of 34 taxpayer audit files, we were unable to determine the true number of taxpayer representatives in our sampled population of 6,896 taxpayer audit files with statute extensions. Of the 34 taxpayer audit files reviewed, six (17.6 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 8.37 percent and a 90 percent confidence interval between 8.87 percent (lower limit) to 36.40 percent (upper limit). Based on this, we projected to the general population of all 6,896 audit files, and estimated that 1,561 (22.64 percent) audit files in which the taxpayer was represented by an authorized representative were noncompliant. The 90 percent confidence interval for this projection is 612 to 2,510 audit files.

² The error rate reported for FY 2020 cannot be compared to the error rates from prior reports. In prior years, the error rate included cases that did not meet our criteria as part of the sample using a conservative approach. However, following the principles outlined in *Sampling Techniques* (3rd edition) by William Cochran, we will not continue to use these cases in our error rate calculation. Thirteen cases were incorrectly coded by the IRS and fell within our population of cases ordered that did not meet the criteria.



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Appendix III

Audit Review Results by Division

| Noncompliance With IRS Internal Procedural Requirements to Notify Taxpayers and Their Representatives of Taxpayer Rights | Division ¹ | | | | | Total |
|--|-----------------------|------|-------|-------|-----|-----------------|
| | Appeals | LB&I | SB/SE | TE/GE | W&I | |
| Noncompliance With Requirement to Notify Taxpayers | *1* | 4 | *1* | 0 | 0 | 8 |
| Noncompliance With Requirements to Notify Taxpayer Representatives | *1* | *1* | *1* | 0 | 0 | 6 |
| Number of Taxpayer Audit Files Reviewed | *1* | 12 | 15 | 0 | *1* | 34 ² |

¹ Independent 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 34 taxpayer audit files reviewed, 27 taxpayer audit files contained an authorization for a third party to represent the taxpayer before the IRS.



Fiscal Year 2020 Statutory Audit of Compliance With Notifying Taxpayers of Their Rights When Requested to Extend the Assessment Statute

Appendix IV

Prior Reports on Compliance With Requests to Extend the Assessment Statute

1. TIGTA, Ref. No. 2019-30-054, *Fiscal Year 2019 Statutory Audit of Compliance With Notifying Taxpayers of Their Rights When Requested to Extend the Assessment Statute* (Aug. 2019).
2. 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).
3. 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).
4. 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).
5. 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).
6. 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).
7. 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).
8. 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).
9. 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).
10. 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).



Fiscal Year 2020 Statutory Audit of Compliance With Notifying Taxpayers of Their Rights When Requested to Extend the Assessment Statute

Appendix V

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 |