



Treasury Inspector General for Tax Administration



*"Taxes are what we pay for a
civilized society"*

– Oliver Wendell Holmes

Semiannual Report to the Congress

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Implementing RRA 98

IRS continues to confront the challenges of implementing RRA 98. RRA 98 mandates significant changes to the way IRS does business. In part, RRA 98 was passed due to Congressional hearings which focused on the misuse of enforcement statistics and abusive treatment of taxpayers. Several taxpayers testified to unfair and unreasonable treatment by IRS employees. Implementation of the legislative provisions imposed on IRS will result in enhanced taxpayer protection and rights, as well as organizational changes intended to achieve a more efficient and responsive organization.

TIGTA placed significant emphasis on the implementation of RRA 98. Although IRS is making progress, TIGTA's audit work indicates that IRS is not in full compliance with all RRA 98 provisions. For example, TIGTA reported that IRS was not in compliance with the taxpayer rights provisions as they relate to seizures, liens, levies, use of enforcement statistics and Freedom of Information Act¹ (FOIA) requests.

TIGTA also conducted reviews of other taxpayer rights issues, such as treatment of taxpayers during office audits and selecting returns for examination. TIGTA's Office of Audit concluded that because of weaknesses in controls and inappropriate actions on cases, the IRS did not always provide fair and equitable treatment to taxpayers.

A significant number of the RRA 98 provisions deal with improving treatment of taxpayers and preventing abuse by IRS employees. Section 1203 of RRA 98 provides for the mandatory termination of IRS employees for specific categories of employee misconduct, including: violation of Constitutional or civil rights of taxpayers or IRS employees; intentional misconduct involving a taxpayer matter; threatening

audits for personal gain; or willful understatement by an employee of his or her own federal tax liability. The misconduct identified in Section 1203 has always been subject to discipline by IRS; however, the mandatory penalties imposed by RRA 98 served notice that a high standard of conduct is expected of IRS employees to ensure the trust and confidence of the public.

To address employee misconduct issues, TIGTA's Office of Investigations worked with IRS to develop procedures regarding assessment, referral and investigation of allegations of misconduct that are covered by Section 1203. TIGTA also operates a toll-free hotline number, an e-mail account and a central post office box to receive complaints of alleged wrongdoing by IRS employees. Information on how to report misconduct has been published in IRS Publication 1, *Your Rights as a Taxpayer*, which is provided to taxpayers that are likely to have direct contact with IRS employees. The toll-free number, e-mail account and address have also been published on TIGTA's public Internet site.

Calls and complaints are received by TIGTA's Complaint Management Division. This Division manages the complaints tracking system which became operational on July 19, 1999. This system provides a central accounting of all complaints received and the disposition of those complaints. In addition, TIGTA is working with IRS' Complaint Processing and Analysis Office to provide guidance on establishing an IRS complaint tracking system that is compatible with TIGTA's system.

Providing Information Technology and Computer Security

Modernization of the IRS' computer systems and security of taxpayer information have been major concerns for the past several years. For more than a decade, at a cost of \$4 billion, the IRS has been attempting to modernize its antiquated tax systems. These

¹ 5 U.S.C. § 552 (1996)

During the initial implementation period, IRS management was not consistently implementing the FTL provisions of RRA 98. Taxpayers and their representatives were not always informed of the taxpayers' right to a hearing once a FTL was filed.

The auditors reviewed 473 cases, of which 157 cases (33 percent) involved 176 potential violations of legislative or procedural requirements (some cases had multiple violations). The auditors' sample was not statistically valid; therefore, the results may not be representative of cases nationwide.

The following are examples of the apparent noncompliance with the provisions of RRA 98 or IRS' procedures contained in the Internal Revenue Manual:

- Taxpayer representatives (e.g., attorney, accountant, etc.) were not sent a lien notice.
- Lien notices were not mailed to taxpayers within five business days of the FTL filing.
- Taxpayers were not given a full 30 calendar days to request a hearing.
- Undelivered lien notices were not re-sent when another address was available.
- Sufficient documentation was not retained to prove that lien notices were sent to taxpayers or were sent timely.
- Responsible spouses or individual partners in a partnership were not sent a copy of the lien notice.

The Office of Audit recommended that the IRS:

- Change systems to automate the mailing and re-issuance of undeliverable lien notices to all responsible taxpayers.
- Revise procedures to ensure that: (1) the government's interest is protected, (2) returned mail is researched completely and processed efficiently, (3) adequate documentation is maintained, and (4) management information systems

measure compliance with the new FTL notification requirements.

IRS management agreed with the findings and recommendations and will take corrective action.

The Internal Revenue Service Needs to Improve Compliance with Legal and Internal Guidelines When Taking Taxpayers' Property for Unpaid Taxes (Report No. 199910072)

IRS procedures and provisions in I.R.C. Sections 6331 through 6344 (1986) are specific as to how to seize taxpayer property. If seizure procedures are followed correctly, taxpayers' rights and the government's interest will be protected. RRA 98 places particular emphasis on taxpayer rights and it contains several new provisions for conducting seizures (e.g., approval levels for seizing business assets, exemption of personal residences from seizures if the tax liability is \$5,000 or less, etc.).

The Office of Audit evaluated whether the IRS conducted seizures according to legal and internal guidelines. The auditors reviewed all 124 seizures (involving 92 taxpayers) conducted by the IRS during a six-month period beginning July 22, 1998, the date RRA 98 became law.

The IRS did not follow all legal and internal guidelines when conducting seizures in 33 (36 percent) of the 92 taxpayer cases reviewed and 32 of those cases potentially impacted the rights of the taxpayer. The auditors concluded further action is needed to ensure that all guidelines are consistently followed.

Legal seizure provisions were not followed in 19 (21 percent) of the 92 cases. Examples included:

- The IRS did not thoroughly investigate the status of the property before seizing property with little or no value, or did not consider alternatives to the seizure.

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- Business property was seized without obtaining the required approvals.
- A notice advising the taxpayer of enforcement action was not provided on all tax periods before the IRS seized the taxpayer's property.

IRS procedures were not followed in 21 (23 percent) of the 92 cases. Examples included:

- Case histories were not documented to indicate Publication 1, *Your Rights As A Taxpayer*, was provided to the taxpayer.
- Taxpayers were not personally warned before the seizure action occurred.
- Expenses of the seizures were not added to the taxpayers' tax liabilities when the property was released.

The Office of Audit recommended that IRS management should:

- Emphasize the need to use the appropriate checklists for all seizures conducted.
- Request an opinion from the IRS Office of Chief Counsel on those seizures that did not follow legal guidelines to determine if the IRS should make restitution to those taxpayers.

IRS management agreed to complete the checklists and to review the applicable seizure cases to determine if any monies should be returned to the taxpayer as a result of an inappropriate seizure.

The Internal Revenue Service Has Not Fully Implemented Procedures to Notify Taxpayers Before Taking Their Funds for Payment of Tax (Report No. 199910071)

Effective in January 1999, the I.R.C. Section 6330 (1986) requires the IRS to advise taxpayers of their right to have their case heard by the Appeals Office, and potentially a court, prior to the IRS taking money from taxpayers' bank accounts, employers or other parties to pay delinquent

taxes. The IRS must wait at least 30 calendar days from the date the taxpayer is notified of the intent to levy and of the taxpayer's appeal rights before issuing a levy.

The auditors reviewed 284 taxpayer accounts, involving 291 levies requested between mid-January and mid-April 1999, to determine if the IRS was in compliance with the new levy provisions, as well as its own internal levy procedures. In the nine offices tested, the auditors reported that the new procedures have not been effectively implemented. The IRS did not consistently notify taxpayers of the intent to levy and of their appeal rights. As a result, the rights of 204 taxpayers were impacted which could result in the IRS having to make restitution to some of the taxpayers.

Legal provisions were not followed in 92 (32 percent) of the 284 taxpayer accounts reviewed. Internal procedures were not followed in 88 (31 percent) of the taxpayer accounts reviewed. Examples of the provisions and procedures not followed included:

- Taxpayers were not notified of the IRS' intent to levy and of their appeal rights before levies were issued.
- Taxpayers were notified of the IRS' intent to levy and of their appeal rights after the levies were issued.
- Taxpayers were notified of the IRS' intent to levy and of their appeal rights, but levies were issued by the IRS during the 30-day waiting period.
- Taxpayers did not have appropriate information added to their computer account history to show the taxpayer had been notified of the IRS' plans to levy.
- Taxpayers did not have appropriate information added to their computer account history to show the initially requested levy had been destroyed.