



DEPUTY COMMISSIONER

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

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MEMORANDUM FOR COMMISSIONER, LARGE BUSINESS AND INTERNATIONAL
COMMISSIONER, SMALL BUSINESS/SELF-EMPLOYED
COMMISSIONER, TAX EXEMPT AND GOVERNMENT
ENTITIES
CHIEF, CRIMINAL INVESTIGATION
DIRECTOR, WHISTLEBLOWER OFFICE

FROM:


John M. Dalrymple
Deputy Commissioner for Services and Enforcement

SUBJECT:

IRS Whistleblower Program

The IRS Whistleblower Office was established in 2007, in response to amendments to the legal authority for paying awards to individuals who report suspected tax compliance issues. Since that time, thousands of whistleblowers have reported hundreds of millions of dollars in suspected tax compliance issues, resulting in a wide range of audits and investigations. Many of these audits and investigations have yielded significant results, demonstrating that whistleblower information can be an important tool in our compliance efforts. For example, Commissioner Koskinen in his June 3, 2014 keynote speech to the U.S. Council for International Business-OECD International Tax Conference gave credit to the role whistleblowers have played in our efforts of combating offshore tax evasion.

A comprehensive review of the operating guidelines and procedures of the Whistleblower Office was completed. In addition to my office, both internal and external stakeholders participated. The objective of the review was to improve the timeliness and quality of decisions as the Service evaluates and acts on whistleblower information. The key principles behind these guidelines and procedures include:

- Whistleblowers can provide valuable leads, and often offer unique insights into taxpayer activity. Frequently the whistleblower provides specific information on issues, taxpayer positions, or actions we would likely be unable to identify using our compliance processes and procedures. When the information can be corroborated, the IRS will act on specific and credible information regarding tax compliance issues as part of our balanced tax enforcement program.

- Timely action is essential. Substantive review of the information offered by whistleblowers, and legal review of any evidentiary issues, needs to be a priority for those assigned to this work. The decision on whether to conduct an audit or investigation should be based on the quality of the information provided, its relevance to IRS tax enforcement priorities, and available resources.
- Some whistleblowers have insights and information which can help the Service understand complex issues or hidden relationships. Debriefing of the whistleblower, whether in person or by telephone, is an invaluable and crucial component of the evaluation of the information prior to a decision on whether the information should be referred to the field for audit or investigation. A debriefing interview can identify connections between the taxpayer and others who may have had a significant role in the alleged noncompliance. The whistleblower may also be able to explain and clarify documents and information submitted with the Form 211.
- All whistleblower submissions referred for subject matter expert (SME) review in LB&I, TEGE and SBSE will include debriefing of the whistleblower, or a specific justification for a decision not to conduct a debriefing. For example a debriefing may not be necessary if the SME or his designee determines that the allegations are based on facts known to be erroneous, incorrect interpretation of applicable law or regulations, if all tax years implicated in the allegations are beyond the applicable statute of limitations, or if the allegations (if proven true) would not result in a material change to the taxpayer's liability.
- With appropriate controls, interaction with a whistleblower during an examination can assist in timely and correct resolution of issues. A contract for services under section 6103(n) may be used when disclosure of taxpayer information is necessary to obtain a whistleblower's insights and expertise into complex technical or factual issues.
- It is imperative that throughout the audit, the audit team strive to protect both the identity as well as the existence of the whistleblower from both the taxpayer and from others who do not have a "need to know" based upon the performance of their official duties. All whistleblower information must be segregated from the regular examination workpapers and regular administrative file and must be given Special Security level SP-2 protection for all informant documents. There should be no mention or discussion of the whistleblower in the regular examination activity log, workpapers (e.g., emails, letters, and intra-agency correspondence) or case file.

One result of the review of operating guidelines and procedures is a set of expectations for timely action on whistleblower submissions. These expectations are targets, and may be exceeded when necessary to address unique facts and circumstances and to ensure that the decision on whether to proceed with compliance action considers all relevant information. Business Performance Review (BPR) reports will include summary data on the following performance goals, and specific explanation of the facts and circumstances for cases that exceed the target by more than 60 days:

- Whistleblower Office - claims received should be initially evaluated by the Whistleblower Office within 90 days.
- Operating Divisions and Criminal Investigation - review by subject matter experts or their designee, as applicable to case type, should be completed within 90 days of receipt.
- Whistleblower Office - whistleblowers should be notified of an award decision within 90 days of when collected proceeds can be finally determined.
- The Office of Chief Counsel has established controls and reporting requirements for its risk analysis opinions. BPR reports should include data on cases for which a risk analysis has been requested but not received for more than 30 days. Chief Counsel has concurred in making this area a priority.

In effort to assist the Operating Divisions and Criminal Investigations to meet the timelines set above, the Whistleblower Office will update and revise procedures to include a workload selection process that identifies priority issues to facilitate assignment.

Timely and comprehensive evaluation of information provided by whistleblowers is essential. This is a shared responsibility of the Whistleblower Office, Operating Divisions, and CI. Please give this subject your personal attention so that the Service can take full advantage of whistleblower information in our compliance programs.

cc: Chief Counsel