



## What Happens to a Claim for an Informant Award (Whistleblower)

### Process for Evaluating Whistleblower's Claim

- A threshold requirement for any award under 7623 is that the information must lead to judicial or administrative action – an audit or investigation resulting in the collection of proceeds.
- An analyst in the Whistleblower Office will consider the information provided by the whistleblower. The IRS has to decide that the case is worth pursuing.
- In the case of a large corporate taxpayer whose returns are audited each year, an administrative action can mean the creation of a new issue under the Audit Plan or a change in the way information about an issue is collected or analyzed, which would not otherwise have occurred without the information provided by the whistleblower.
- In other cases, an administrative action can mean placing a taxpayer under audit who was not already under audit.

### Duration of Process

- The process, from submission of complete information to the Service until the proceeds are collected, may take several years.
- Payments of awards will not be made until after the taxes, penalties, interest, additions to tax and additional amounts that are finally determined to be owed to the Service have been collected.
- Examples of when a final determination of tax liability can be made include, but are not limited to
  - at the administrative level when the Service and the taxpayer enter into a closing agreement wherein the taxpayer conclusively waives the right to appeal or otherwise challenge a deficiency or additional tax liability determined by the Service;
  - if a taxpayer petitions United States Tax Court; when a decision becomes final within the meaning of section 7481; and
- After the expiration of the statutory period for a taxpayer to file a claim for refund and to file a refund suit based on the claim against the United States, or if a refund suit is filed, when the judgment in that suit becomes final.
- A finding of fraud in a tax case carries some significant additional implications for penalties, fines and jail time. In the context of whistleblower claims, it also has statute of limitations implications that can make a big difference for the whistleblower.

### Percentage Applied to Awards Under Section 7623(a)

- The discretionary maximum percentage of award for an (a) case is 15 percent, up to \$10 million.
- If the whistleblower planned and initiated the actions that led to the underpayment of tax, or the violation of the internal revenue laws, the award may be reduced.

### Percentage Applied to Awards Under Section 7623(b)

- The Whistleblower Office will make the final determination whether an award will be paid and the amount of the award.
- Award will be paid in proportion to the value of the information furnished voluntarily with respect to proceeds collected, including penalties, interest, additions to tax and additional amounts.
- The amount of the award will be at least 15 percent but not more than 30 percent of collected proceeds in cases in which the Service determines that the information submitted substantially contributed to the Service's detection and recovery of tax.
- If an action is based principally on allegations resulting from judicial or administrative proceeding, government reports, hearing, audit, or investigation, or the news media, an award of lesser amount, subject to the discretion of the Whistleblower Office, may be provided. The award will not be more than 10 percent of collected proceeds as described above. This reduction in award percentage does not apply if the whistleblower was the initial source of the information.
- If the whistleblower planned and initiated the actions that led to the underpayment of tax, or the violation of the internal revenue laws, the Director, Whistleblower Office may reduce the award.
- If the whistleblower is convicted based on his/her role in planning and initiating the action, then the Whistleblower Office is required to deny the award.

### Tax Treatment of Awards

- Prior to issuing an award check, the IRS will verify the informant's mailing address.
- All awards will be subject to current federal tax reporting and withholding requirements.
- Whistleblower will receive a Form 1099 or other form as may be prescribed by law, regulation, or publication.

### Appeal Rights

- The Whistleblower Office will communicate the final claim determination, in writing to the claimant. Final determinations regarding awards under 7623(b) may, within 30 days of such determination, be appealed to the United States Tax Court.
- Decisions under section 7623(a) may not be appealed to the Tax Court.

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[Informant Award \(Whistleblower\)](#)

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