TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION

Affordable Care Act: With Minor Exceptions, Controls and Procedures for Collection of the Shared Responsibility Payment and Excess Advance Premium Tax Credit Were Effectively Established

September 19, 2016

Reference Number: 2016-33-071

This report has cleared the Treasury Inspector General for Tax Administration disclosure review process and information determined to be restricted from public release has been redacted from this document.

Redaction Legend:
1 = Tax Return/Return Information

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AFFORDABLE CARE ACT: WITH MINOR EXCEPTIONS, CONTROLS AND PROCEDURES FOR COLLECTION OF THE SHARED RESPONSIBILITY PAYMENT AND EXCESS ADVANCE PREMIUM TAX CREDIT WERE EFFECTIVELY ESTABLISHED

Highlights

Final Report issued on September 19, 2016

Highlights of Reference Number: 2016-33-071 to the Internal Revenue Service Commissioner for the Small Business/Self-Employed Division.

IMPACT ON TAXPAYERS

The Affordable Care Act (ACA) requires all individuals who receive the Advance Premium Tax Credit (APTC) to file a tax return to reconcile the payments to their allowable credit for the tax year. If the APTC amount received is more than the allowable credit, taxpayers must repay the excess. In addition, the individual Shared Responsibility Payment (SRP) may be assessed for taxpayers who do not maintain minimum essential health coverage. Because the law limits the IRS's use of traditional enforcement methods for collecting the SRP, there is a higher risk of taxpayer delinquency, taxpayer burden, and inconsistent treatment.

WHY TIGTA DID THE AUDIT

It is important that the IRS properly implement procedures and establish controls to collect taxes related to new ACA provisions. The overall objective of this audit was to determine whether the IRS has adequate controls and procedures in place to properly collect delinquent SRPs and excess APTC repayments.

WHAT TIGTA FOUND

The IRS timely implemented training, procedures, and controls for collecting delinquent SRPs. Furthermore, TIGTA did not identify any instances in which the IRS took prohibited enforcement actions to collect delinquent SRPs.

Because the ACA does not restrict the IRS's collection methods for excess APTC repayment, the IRS treats excess APTC the same way as any other tax debt on taxpayers' delinquent tax returns. TIGTA determined that the IRS followed collection procedures and did not identify any instances of improper actions related to repayment of excess APTC.

IRS policy requires SRP liabilities to be included in new, revised, and reinstated installment agreements and new offers in compromise (OIC). However, unlike other tax liabilities, the IRS decided that new unpaid SRP liabilities would not default taxpayers' existing installment agreements or OICs. IRS management believes that because the SRP is not subject to enforcement actions, it should not be the sole reason to take enforcement action on other unpaid liabilities. It is within the IRS's authority to make this policy decision. However, this policy is inconsistent with the IRS's other policy requiring taxpayers to be in tax compliance prior to entering into installment agreements and increases the risk that taxpayers will accumulate new unpaid SRPs while maintaining an installment agreement.

TIGTA also identified SRP liabilities that were not included in taxpayers' new, revised, or reinstated installment agreements or new OICs, as required. However, management has taken corrective action and implemented programming fixes that will correct most of the problems.

WHAT TIGTA RECOMMENDED

TIGTA recommended that the IRS implement a programming fix to include SRP modules that are closed as below tolerance when setting up a new installment agreement for other tax liabilities, and ensure that the Tax Year 2015 SRP modules with misapplied payments are corrected and monitor the situation until it is clear that the problem has been resolved.

In their response, IRS management agreed with TIGTA's recommendations. The IRS plans to block SRP modules from being closed as below tolerance. Also, the IRS stated that it has corrected the Tax Year 2015 SRP modules with misapplied payments and will use existing processes to resolve accounts with outstanding credit balances.

TREASURY INSPECTOR GENERAL
FOR TAX ADMINISTRATION

DEPARTMENT OF THE TREASURY

WASHINGTON, D.C. 20220

September 19, 2016

MEMORANDUM FOR COMMISSIONER, SMALL BUSINESS/SELF-EMPLOYED DIVISION

FROM: Michael E. McKenney
Deputy Inspector General for Audit

SUBJECT: Final Audit Report – Affordable Care Act: With Minor Exceptions, Controls and Procedures for Collection of the Shared Responsibility Payment and Excess Advance Premium Tax Credit Were Effectively Established (Audit # 201530333)

This report presents the results of our review to determine whether the Internal Revenue Service (IRS) has adequate controls and procedures in place to properly collect delinquent Shared Responsibility Payments and delinquent Advanced Premium Tax Credit repayments. This audit is included in our Fiscal Year 2016 Annual Audit Plan and addresses the major management challenges of Implementing the Affordable Care Act and Other Tax Law Changes and Tax Compliance Initiatives.

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

Copies of this report are also being sent to the IRS managers affected by the report recommendations. 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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Appendices

Abbreviations

ACA	Affordable Care Act
ACS	Automated Collection System
APTC	Advance Premium Tax Credit
CNC	Currently Not Collectible
FPL	Federal Poverty Line
IMF	Individual Master File
I.R.C.	Internal Revenue Code
IRM	Internal Revenue Manual
IRS	Internal Revenue Service
MEC	Minimum Essential Coverage
NFTL	Notice of Federal Tax Lien
OIC	Offer in Compromise
PTC	Premium Tax Credit
SDS	Strategic Data Services
SRP	Shared Responsibility Payment

Background

The *Affordable Care Act (ACA),*[1] enacted in March 2010, has provisions that provide incentives and tax breaks to individuals to offset health care expenses.[2] The provisions also impose penalties, administered through the tax code, for individuals who do not obtain health care coverage for themselves or their dependents. Some taxpayers who owe ACA-related taxes and penalties and do not pay them when their tax return is filed will become delinquent. The Internal Revenue Service (IRS) is responsible for collecting delinquent ACA-related taxes and penalties with respect to applicable ACA law. Because the law limits the IRS's use of traditional enforcement methods for collecting some of these debts, there is a higher risk of taxpayer delinquency.

The IRS is responsible for collecting delinquent ACA-related taxes and penalties with respect to applicable ACA law.

During the 2015 Filing Season, the IRS was responsible for implementing two primary provisions of the ACA: the individual taxpayer reporting of the Shared Responsibility Payment (SRP) and the individual taxpayer reconciliation of Premium Tax Credits (PTC) received in advance.

SRP reporting

The individual SRP provision of the ACA requires each individual to have basic health insurance coverage known as Minimum Essential Coverage (MEC) beginning in January 2014.[3] Individuals may obtain MEC through specified Government-sponsored programs, eligible employer-sponsored plans, plans in the individual market, grandfathered health plans, or other coverage recognized as MEC by the Department of Health and Human Services.[4] Taxpayers and any individual the taxpayer could claim as a dependent for Federal income tax purposes who did not maintain MEC must either be exempted from the requirement or pay an SRP for each month during which MEC was not maintained.

For taxpayers without MEC or an exemption, the annual SRP is calculated one of two ways. For Tax Year 2014, taxpayers must pay whichever of the following two calculated amounts is higher:

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[1] The Patient Protection and Affordable Care Act, (Pub. L. No. 111-148, 124 Stat. 119 (2010) and the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152, 124 Stat. 1029) (collectively, the Affordable Care Act).
[2] See Appendix IV for a glossary of terms.
[3] Internal Revenue Code (I.R.C.) Section (§) 5000A.
[4] I.R.C. §5000A(f).

- 1 percent of the taxpayer's yearly household income that is above the tax return filing threshold based on the taxpayer's filing status.[5] The maximum penalty is the National average yearly premium for a Bronze plan available through the Health Insurance Marketplace (Exchange).[6] For Calendar Year 2014, the annual National average premium for a Bronze-level health plan available through the Exchange was $2,448 per individual, with a $12,240 cap for a family with five or more members.[7]
- $95 per person for the year ($47.50 per child under 18). The maximum penalty per family using this method is $285.

The IRS is limited by the ACA in its ability to collect the SRP if taxpayers do not pay when filing their tax return. Once the IRS has assessed the SRP, it cannot use traditional enforcement methods for collecting the SRP, such as filing a *Notice of Federal Tax Lien* (NFTL) or levying against taxpayers' assets. Additionally, taxpayers cannot be criminally prosecuted or assessed a penalty for failure to pay the SRP.[8] The IRS may, however, collect the SRP through other non-enforcement collection procedures such as inclusion in an installment agreement or offer-in-compromise (OIC), or the taxpayer may voluntarily choose to fully pay the SRP. The IRS may also assess interest charges on a delinquent SRP balance. In addition, the IRS may collect the SRP from taxpayers who do not pay by offsetting any refund, current or future, that is due to the taxpayer.

If a taxpayer owes an SRP and has no related balance due liabilities assigned to the Automated Collection System (ACS), Field Collection, the Queue, or Taxpayer Delinquency Investigation, then the IRS classifies the balance due as a "standalone SRP." After standalone SRPs complete the notice stream,[9] the IRS closes the SRP balance due as Currently Not Collectible (CNC)-Recess, due to the collection restrictions on SRP liabilities. CNC-Recess is a type of case closure that was created exclusively for SRP liabilities. If the SRP is not a standalone, *e.g.*, the taxpayer has other tax liabilities in the collection process in addition to the SRP liability, it may eventually be assigned to the ACS or Field Collection to be worked. However, even if the IRS takes enforcement action against the other liabilities, it cannot take enforcement action to collect the SRP.

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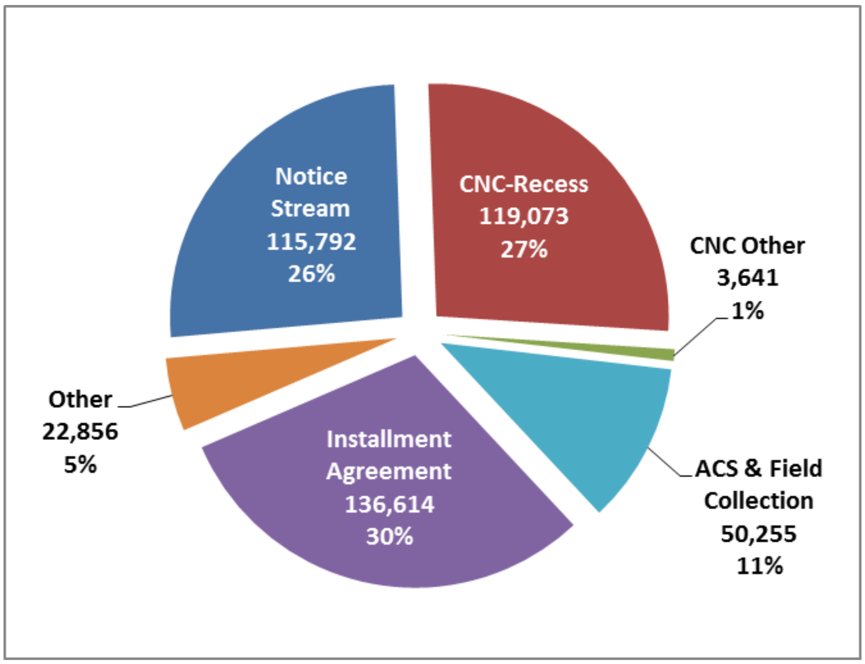
[5] The filing threshold is the income level below which taxpayers are not required to file a tax return. For Tax Year 2014, single taxpayers under age 65 with income below $10,150 are not required to file a tax return.
[6] The ACA created the Health Insurance Marketplace, also known as the Exchange. The Exchange is where individuals find information about health insurance options, purchase qualified health plans, and obtain help paying premiums (if eligible).
[7] Health plans offered by the Exchange are categorized as Platinum, Gold, Silver, or Bronze, depending on the share of costs the insurer covers. A Bronze plan will provide benefits that are actuarially equivalent to 60 percent of the full actuarial value of the benefits provided under the plan. This means the plan will cover about 60 percent of the costs for covered medical services.
[8] I.R.C. §5000A(g)(2)(A).
[9] The notice stream is the process through which the IRS issues a series of balance due notices to delinquent taxpayers.

As of August 2015, we identified 7,649,443 taxpayers who reported an SRP on their filed 2014 tax return.[10] Of these taxpayers, 7,071,445 (92.4 percent) either paid their SRP with the tax return or the amount due was taken out of their refund.[11] The remaining 567,944 delinquent SRP liabilities were sent to the notice stream.

By December 2015, 8,101,196 taxpayers had reported $1,667,307,207 of the SRP on their filed 2014 tax returns.[12] Of these taxpayers, 448,231 (5.5 percent) remained uncollected with $131,649,128 (7.9 percent) balances due. Figure 1 shows the status of the 448,231 remaining taxpayers with delinquent SRP balances due as of December 2015.

Figure 1: Status of SRP Balance Due Liabilities As of December 2015[13]



Source: Treasury Inspector General for Tax Administration analysis of IRS Chief Financial Officer data as of cycle 201550.

[10] Our analysis of Tax Year 2014 SRP liability data is as of cycle 201534 (August 27, 2015). We used the subpopulation of 567,944 delinquent SRP taxpayers to perform additional analyses, such as whether statutory notices were sent for SRP modules, shown later in this report.

[11] We also identified 10,054 of 7,649,443 taxpayers (0.13 percent) who reported an SRP on their filed 2014 tax return, where the SRP liability was on the Individual Master File (IMF), but did not yet have status code data available.

[12] The 8.1 million taxpayers represent 5.4 percent of the total population of 150,694,000 2014 tax returns filed as of December 2015.

[13] The CNC Other category includes closures such as hardship, shelved, and decedent. The Other category includes statuses such as Queue, OIC, bankruptcy, tolerance, delay, litigation, and Combat Zone. Each of these closures was less than 2 percent of the total.

Of the taxpayers with delinquent SRP balances:

- 30 percent included the SRP balance dues in an installment agreement.
- 27 percent were closed as CNC-Recess.
- 26 percent of taxpayers with SRP balances were still in the notice stream.
- 11 percent were assigned to either the ACS or Field Collection to be worked.
- 1 percent was closed with some other CNC closure, such as hardship, shelved, or decedent.

The remaining 5 percent of taxpayers with delinquent SRP liabilities were in a variety of statuses including the Collection Queue awaiting assignment to Collection function personnel, delayed while collection notices were suspended for various reasons, closed as below tolerance due to the small balance on the account, in litigation, or included in an OIC.

Advance Premium Tax Credit (APTC) reconciliation

The PTC was created to help make health insurance more affordable for moderate-income families by providing assistance in paying for health insurance premiums. Individuals who purchase their health insurance through the Exchange and who meet certain income requirements may be entitled to receive the PTC.[14] Individuals can elect to send some or all of the PTC in advance as monthly payments directly to their health insurance provider as payment for their premium or wait and claim the PTC on their annual tax return as a refundable credit. All individuals who elect to receive the APTC must file a tax return to reconcile the advance payments to their allowable PTC for the tax year. If the APTC amount received is more than the allowable PTC, taxpayers must repay the excess APTC.

The ACA does not impose any limits on the IRS's collection powers for excess APTC. Repayment amounts are simply added into the taxpayer's tax liability on the tax return. Therefore, the IRS treats any APTC repayment that is not collected with the tax return just like other delinquent income tax liabilities. The IRS may take any collection action, including the NFTL, levy, and refund offset on these liabilities. Penalties and interest may also be assessed, as with any other overpaid refundable credit.

It is important that the IRS properly implement the procedures and establish the necessary controls for both of these two new ACA provisions so that the law is upheld, taxpayers are not excessively burdened, and revenue is protected.

This review was performed at the Fort Myers, Florida; Plantation, Florida; Kansas City, Missouri; and Philadelphia, Pennsylvania offices of the Small Business/Self-Employed Division's Collection function during the period July 2015 through June 2016. We conducted

[14] I.R.C. § 36B.

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. Detailed information on our audit objective, scope, and methodology is presented in Appendix I. Major contributors to the report are listed in Appendix II.

Results of Review

The IRS ACA Joint Implementation Team along with subject matter experts worked with IRS Collection Policy personnel to develop policies, procedures, and controls for the IRS-related ACA provisions. For repayment of excess APTC, the IRS followed normal collection procedures for taxpayers and we did not identify any instances of improper actions related to excess APTC repayments. For the SRP, the IRS timely implemented training, procedures, and controls for collecting delinquent SRP liabilities. We did not identify any instances in which the IRS took prohibited enforcement action to collect SRP liabilities. However, we identified weaknesses related to SRP collection controls, including:

- The IRS policy for defaulting existing installment agreements and OICs is inconsistent for SRP liabilities.
- Some SRP liabilities were not always included in new, revised, and reinstated installment agreements or new OICs.[15]
- Some SRP liabilities were prematurely moved to CNC-Recess status.
- Some estimated payments were misapplied due to taxpayer error, creating incorrect credit balances for Tax Year 2015 SRP liabilities.

These problems are generally systemic in nature and could cause taxpayer burden. For example, taxpayers may need to contact the IRS to add SRP liabilities to the installment agreement, or they may need to ask the IRS to correct their misapplied estimated payment. Balances that were prematurely moved to CNC-Recess status may be more difficult for the IRS to collect because traditional NFTL and levy actions are prohibited for SRP liabilities.

Collection of Excess Advance Premium Tax Credits Was in Compliance With the Affordable Care Act

Excess APTC is treated in the same way as any other tax debt on a taxpayer's delinquent tax return. Because the ACA does not restrict the IRS's collection methods for excess APTC repayment, the IRS includes any excess APTC balances due with taxpayers' tax liabilities for that tax year. However, some individuals do not have to repay all of their excess APTC based on their income level.

[15] See Appendix IV, Glossary of Terms, for a definition of installment agreement and OIC and the different ways that they can be established.

Our analysis of the APTC as of August 2015 determined that most taxpayers paid their excess APTC with their tax return. For individuals who are required to repay the excess APTC due to an incorrect estimate or a change in household income, the ACA limits the amount of the APTC that individuals with household income below 400 percent of the Federal Poverty Line (FPL) will have to repay.[16] However, individuals whose household income is 400 percent or more of the FPL are not eligible to receive the PTC and are required to repay the full amount of any APTC they received. Figure 2 lists the repayment limits for individuals with a household income of less than 400 percent of the FPL.

Figure 2: Limit on Repayment – Individuals Receiving Excess APTC

Household Income Percentage of the FPL	Repayment Limit - Filing Status Single	Repayment Limit - Filing Status Other Than Single
Less than 200 percent	$300	$600
200 percent but less than 300 percent	$750	$1,500
300 percent but less than 400 percent	$1,250	$2,500
400 percent or more	No Limit	No Limit

Source: Treasury Regulation § 1.36B-4.

We analyzed the tax returns that were filed as of August 20, 2015, and identified 1,588,675 taxpayers who received excess APTC on their tax return in Calendar Year 2014. Figure 3 shows the number of taxpayers and dollars of excess APTC, the excess APTC required to be repaid and not required to be repaid, and whether taxpayers' household incomes were above or below 400 percent of the FPL at the time the IRS processed the tax return.

Figure 3: Taxpayers With Excess APTC As of August 2015[17]

Household Income Percentage of the FPL	Number of Taxpayers	Total Excess APTC	Excess APTC Required to be Repaid	Percentage of Excess APTC Required to be Repaid	Excess APTC Not Required to be Repaid	Percentage of Excess APTC Not Required to be Repaid
Less than 400 percent	1,429,658	$1,523,400,532	$843,661,860	55%	$679,738,672	45%
400 percent or more	159,017	$475,420,775	$475,420,775	100%	$0	0%
Total	**1,588,675**	**$1,998,821,307**	**$1,319,082,635**	66%	**$679,738,672**	34%

Source: Returns Transaction File data as of cycle 201533.

Taxpayers with household incomes less than 400 percent of the FPL represented 90 percent of the tax returns filed with excess APTC (1,429,658 of 1,588,675). They had to repay 55 percent

[16] The FPL is a measure of income level issued annually by the Department of Health and Human Services. The FPL is used to determine eligibility for certain programs and benefits.

[17] The accuracy of the APTC repayment calculations was tested in a separate report, Treasury Inspector General for Tax Administration, Ref. No. 2016-43-033 *Affordable Care Act: Internal Revenue Service Verification of Premium Tax Credit Claims During the 2015 Filing Season* (Mar. 31, 2016), which concluded that the IRS did not accurately determine the allowable PTC on 7 percent of the tax returns. The IRS Chief Financial Officer has since developed a process to adjust for these errors on their reports, which is reflected in the December 2015 data shown in this report.

of their total excess APTC. There were 410,866 taxpayers with household income less than 400 percent of the FPL who were exempted from paying approximately $680 million of their excess APTC due to repayment restrictions in the ACA. The remaining 10 percent of taxpayers with excess APTC had household incomes 400 percent or more of the FPL and thus had to repay all of the excess APTC they received.

Our analysis, as of August 2015, showed that the majority of taxpayers (62 percent or 985,986 taxpayers) who were required to repay excess APTC either had the balance due withheld from their refund or sent a payment with their tax return. The remaining 602,689 (38 percent) taxpayers still owed approximately $800 million of excess APTC after the tax return was filed.

Figure 4 shows the number of taxpayers who had balance due returns and dollars of excess APTC balances due, the excess APTC required to be repaid and not required to be repaid, and whether taxpayers' household incomes were above or below 400 percent of the FPL, at the time that IRS processed the tax return.

Figure 4: Balance Due Tax Returns With Excess APTC As of August 2015[18]

Household Income / Percentage of the FPL	Number of Taxpayers	Total Excess APTC	Excess APTC Required to be Repaid	Percentage of Excess APTC Required to be Repaid	Excess APTC Not Required to be Repaid	Percentage of Excess APTC Not Required to be Repaid
Less than 400 percent	491,012	$620,137,526	$406,828,257	66%	$213,309,269	34%
400 percent or more	111,677	$393,181,197	$393,181,197	100%	$0	0%
Total	**602,689**	**$1,013,318,724**	**$800,009,455**	79%	**$213,309,269**	21%

Source: Treasury Inspector General for Tax Administration analysis of Returns Transaction File data as of cycle 201533.

Taxpayers with household incomes less than 400 percent of the FPL represented 81 percent of the tax returns filed with excess APTC balances due (491,012 of 602,689), and had to repay 66 percent of the excess APTC that they received. There were 183,070 taxpayers with household income less than 400 percent of the FPL who were exempted from paying approximately $213 million of their excess APTC due to repayment restrictions in the ACA. The remaining 19 percent of taxpayers with excess APTC had household incomes 400 percent or more of the FPL and thus had to repay all of the excess APTC they received.

As of December 2015, the IRS Chief Financial Officer reported that 1,829,735 taxpayers had filed tax returns with excess APTC that was required to be repaid, totaling $1,611,533,230. Additionally, 475,357 taxpayers had excess APTC that was not required to be repaid, totaling $407,984,372. Out of the 1,829,735 taxpayers who reported excess APTC required to be repaid with the tax return by December 2015, only 39,056 (2 percent) taxpayers had unpaid assessments totaling $43,106,202 (3 percent).

[18] Column totals are rounded based on actual dollars.

Although taxpayers may not have to repay the full amount of excess APTC, the ACA does not restrict the use of enforcement actions for collecting the excess APTC that is subject to repayment. Excess APTC liabilities that are subject to repayment are included in the tax assessment that is created when a Form 1040, *U.S. Individual Income Tax Return*, series tax return posts as part of any other tax owed. Therefore, the IRS did not make significant changes to policies or procedures related to excess APTC repayments. The IRS provided timely training to Collection function employees on the PTC and how it is calculated so that Collection function employees can answer taxpayer questions, if needed.

Our review showed that the IRS is using enforcement actions, such as the NFTLs and levies, on balance due modules that include excess APTC repayments. We analyzed the 602,689 excess APTC repayment balance due taxpayer accounts to verify that standard enforcement actions were used on delinquent tax liabilities that included excess APTC repayments. Specifically, our analysis showed that the IRS had filed the NFTLs for 561 taxpayers and issued levies for 1,412 taxpayers with APTC balances due.[19] The number of the NFTLs filed and levies issued is relatively small because these assessments, as of December 31, 2015, were less than a year old and enforcement actions may be taken later. Additionally, the balances due amounts could be below the dollar thresholds required for enforcement actions.

Training, Procedures, and Controls Were Timely Implemented for Collection of Delinquent Shared Responsibility Payments

The creation of SRP procedures, controls, and training were particularly important because of the limitation the ACA places on the IRS with regard to certain enforcement actions on delinquent SRP liabilities. The 2015 Filing Season was the first time the IRS needed to be prepared to collect delinquent ACA-related taxes and penalties from individual taxpayers. As of January 1, 2015, IRS management had either updated the applicable Internal Revenue Manual (IRM) or issued interim guidance on ACA-related collection procedures and controls. Additionally, training was provided to IRS collection employees throughout Calendar Year 2015 to ensure proper handling of SRP cases.

SRP training was timely developed and implemented

Training for ACA-related collection procedures was provided to responsible Compliance Services Collection Operations and ACS employees by June 2015. Field Collection employees (revenue officers) were trained through a Continuing Professional Education course as of September 30, 2015.

Even though SRP procedures and training were timely provided to employees, some of the Compliance Services Collection Operations, ACS, and Field Collection personnel that we

[19] NFTL data are from the IMF as of December 31, 2015, and levy data are from the Integrated Collection System and the ACS as of February 29, 2016.

interviewed were not always clear about how to handle SRP delinquencies involving installment agreements. For example, IRM procedures and training documents are generally clear that the SRP must be included in a new or pending installment agreement. However, many employees and managers we interviewed thought that the SRP could be excluded from a new installment agreement if the taxpayer did not want to include it. In addition, some employees were not aware that the filing of the NFTLs or levies was prohibited when a taxpayer failed to pay SRP liabilities.

During our review, the IRS updated the IRM to clarify existing policies. For example, IRS management added language to clarify that SRP liabilities must be included in new or pending installment agreements.[20] Additionally, language was added to specifically explain that an installment agreement should be rejected if the taxpayer does not agree to include his or her SRP liability in the agreement with his or her other tax modules.[21] In addition, IRS management advised us that they will be issuing tool kits and refresher training to Collection function employees for the Tax Year 2015 Filing Season.

SRP procedures and controls were timely developed and implemented

The IRS established controls designed to ensure that collection enforcement actions, such as the NFTLs and levies, were not taken on SRP liabilities. Specifically, management created a new SRP-only module (Master File Tax 35) that systemically prevents improper collection actions. We observed these controls working in both the ACS and the Integrated Collection System. In addition, IRS management monitors SRP liabilities on a monthly basis to ensure that improper collection actions are not occurring. Our analysis of delinquent SRP liabilities as of December 31, 2015, did not identify any improper NFTL or levy enforcement actions or levy proceeds on SRP liabilities.

Systemic programming put in place for this new SRP module also prevents taxpayers from receiving the final balance due reminder notice, which warns the taxpayer of potential NFTL and levy actions.[22] Without a final notice, a systemic levy cannot be issued and IRS employees cannot issue a systemic levy on any type of module.[23] This provides a second layer of protection from collection actions, beyond the separate module type. Our analysis, as of August 27, 2015, did not identify any final balance due notices sent for SRP liabilities.

[20] IRM 5.14.1.1(5) (Jan.7, 2016).
[21] IRM 5.19.1.5.4.9(2) and 5.19.1.5.4.10(5) (Jan. 1, 2016).
[22] Computer Paragraph 504 - Final Balance Due Notice.
[23] It is possible that a revenue officer could send a manual levy on an SRP liability in error if a notice of levy has not been sent; however, manual levies by revenue officers are rare and SRP procedures make it clear that levies are prohibited for SRP liabilities.

Although taxpayers do not receive the final notice for delinquent SRP liabilities, they will receive a statutory balance due notice[24] and potentially two more balance due notices.[25] These notices are similar to regular tax balance due notices, but include language specific to the SRP module. The notices inform taxpayers that they have an unpaid SRP liability and the law allows the IRS to assess the payment against them for not securing MEC. The second and third notices also warn the taxpayer that interest is charged if the SRP liability is not paid on time. Our analysis of 567,944 delinquent SRP liabilities as of August 27, 2015, showed that every SRP liability received the statutory balance due notice and that interest is being assessed.[26]

Unlike other tax debts, SRP liabilities are not subject to a penalty for failure to pay.[27] Therefore, the IRS made a policy decision to assess the SRP liability one week later than any tax debt for that period. As a result, the Collection Statute Expiration Date is later for the SRP liability. Because the IRS applies subsequent payments to liabilities with the earliest Collection Statute Expiration Dates, any subsequent taxpayer payments will be applied towards the tax debt (accruing both interest and penalties) before the SRP liability (accruing only interest) for any year.

The Internal Revenue Service Does Not Default Existing Installment Agreements and Offers in Compromise Based on Unpaid Shared Responsibility Payment Liabilities

Typically, installment agreements and OICs are dependent on taxpayers staying compliant with their tax obligations. In other words, if a taxpayer has a new tax debt and it becomes delinquent, it will default an existing installment agreement or OIC.[28] However, IRS management made a policy decision that unpaid SRP liabilities will not default existing installment agreements[29] or OICs.[30] This policy is not consistent with IRS treatment of all other unpaid tax liabilities or penalty assessments.

[24] Statutory notice – Computer Paragraph 14H – Balance Due $5 or More, No Math Error (ACA).
[25] Second notice – Computer Paragraph 501H – IMF 1st Notice – Balance Due – (SRP) and third notice – Computer Paragraph 503H – IMF 2nd Notice – Balance Due – (SRP).
[26] We did not review the accuracy of the interest calculation because it is computed using the same systemic process as regular tax debts.
[27] I.R.C. §5000A(g).
[28] IRM 5.8.9.4 (Jan. 1, 2016) and IRM 5.14.11.3 (Jan. 1, 2015).
[29] IRM 5.14.1.1 (Jan. 1, 2016).
[30] IRM 5.8.9.4 (Jan. 1, 2016).

The ACA refers to the SRP as a penalty for failure to maintain minimum essential health coverage. The Supreme Court upheld the constitutionality of the SRP as an exercise of Congress' taxing powers.[31] Whether labeled a tax or a penalty, the SRP is a taxpayer liability under Title 26.[32] All other unpaid liabilities, including both taxes and penalties, will default existing installment agreements and OICs. While the ACA law prohibits the NFTLs and levies against SRP liabilities, it does not prohibit collection through payment methods such as refund offsets, installment agreements, or OICs.

If taxpayers' OIC agreements are accepted by the IRS, taxpayers must continue to timely file and pay all required tax returns, estimated tax payments, and Federal tax payments that become due within the five years after the offer is accepted (including any extensions).[33] Our analysis of the 567,944 delinquent SRP taxpayers identified 1,262 taxpayers (0.2 percent) who had an existing accepted OIC when their SRP liability was assessed.[34] In these cases, the SRP liabilities did not terminate the OIC. Taxpayers subsequently paid the SRP liabilities through a refund offset or by making a payment in 726 cases (58 percent). In 32 cases (3 percent), the OIC defaulted due to an additional tax module, and an installment agreement was set up, including the SRP. However, the remaining 504 SRP liabilities (40 percent)[35] remained uncollected as of December 31, 2015.

Our analysis of 567,944 delinquent SRP taxpayers also identified 101,805 taxpayers (18 percent) who had an existing installment agreement when their SRP liability was assessed.[36] In the majority of cases (76,964 or 76 percent), taxpayers subsequently paid the SRP liability through a refund offset, made a payment, voluntarily added the SRP to their installment agreement, or included the SRP in a pending or accepted OIC. However, the remaining 24,841 cases (24 percent) remained uncollected as of December 31, 2015.

IRS management advised us that a policy was established preventing the default of installment agreements and OICs on the occurrence of unpaid standalone SRP liabilities. Management believes this policy is justified because the SRP is not subject to enforcement actions, so it should not be the sole reason to take enforcement action on other unpaid liabilities. Management's rationale is that if an existing installment agreement or OIC is defaulted due to a standalone SRP module, the IRS may begin enforcement actions on all the taxpayer's other unpaid tax liabilities or penalty assessments, appearing to violate the spirit of the law. However, current IRS policy requires taxpayers to include the SRP module in any new, revised, or reinstated installment agreement or new OIC. If a taxpayer refuses to include it, IRS employees must follow rejection procedures for the requested installment agreement. Once the installment

[31] *National Federation of Independent Business v. Sebelius,* 567 U.S., 132 S.Ct. 2566, 183 L.Ed.2d 450 (2012).
[32] The I.R.C. is the body of law that codifies all Federal tax laws, which constitute Title 26 of the U.S. Code.
[33] Form 656-B, *Offer in Compromise (Booklet),* (Rev. Feb. 2016).
[34] Data are as of December 31, 2015.
[35] Percentages total more than 100 due to rounding.
[36] Master File Data are as of December 31, 2015.

agreement is rejected, the IRS may begin enforcement actions on all the taxpayer's unpaid tax liabilities or penalty assessments, creating the same conditions as would defaulting an existing installment agreement.

It is within the IRS's authority to make the policy decision to not default installment agreements for SRP liabilities; therefore, we are not making a recommendation. However, the policy is inconsistent with its policy requiring taxpayers to be in compliance with all other tax liabilities as a condition for remaining in installment agreements or OICs and is also inconsistent with the IRS's policy for establishing a new installment agreement when there are unpaid SRPs present. Additionally, this policy increases the risk that taxpayers will accumulate multiple unpaid SRPs while continuing to maintain existing installment agreements and OICs. IRS management stated that they will continue to monitor the data and may reassess the policy at a later time if it is found to be warranted.

Shared Responsibility Payment Liabilities Were Not Always Included in New, Revised, and Reinstated Installment Agreements or New Offers in Compromise

Because the SRP is a liability collectible with the filing of a tax return pursuant to I.R.C. provisions, IRS policy requires that the SRPs be included in new, revised, or reinstated installment agreements and in new OIC[37] agreements.[38] If a taxpayer does not agree to include the SRP liability in the installment agreement or OIC with any other tax liabilities, the installment agreement or OIC will not be accepted. Because the IRS is not able to collect the SRP through traditional enforcement actions, management made a policy decision to treat SRP liabilities like all other tax liabilities and require them to be included in new, revised, or reinstated installment agreements and in accepted OICs.

IRS management stated that systemic controls are in place to include all SRP liabilities in new, revised, and reinstated installment agreements. However, our review of a random sample of 100 cases showed that SRP liabilities were not always included in installment agreements as intended.[39]

[37] The OICs that are accepted based on Doubt as to Liability should only include the tax years or periods that are in question; therefore, a taxpayer's SRP liability may not be included. However, the OICs based on Doubt as to Collectability or Effective Tax Administration should include the taxpayer's SRP liability.
[38] IRM 5.19.1.5.4.26 (Jan. 1, 2016) and IRM 5.8.1.4 (Jan. 1, 2016).
[39] We selected our random sample from a population of 3,085 taxpayers who had a tax liability and entered into a new, revised, or reinstated installment agreement after the related SRP liability was either pre-assessed or assessed, and the SRP liability was not in an installment agreement or fully paid as of June 14, 2015. Our sample was based on a confidence interval of 90 percent with an expected error rate of 4 percent and a precision of ± 6.5 percent. We identified 43 SRPs that were pre-assessed and 55 SRPs that were assessed at the time the installment agreement was set up. ******1**********. We could not be certain whether the SRP was pre-assessed or assessed until we reviewed the actual status and transaction code history for each case. See Appendix I for more details.

Pre-assessed SRP liabilities were not always included in new or revised installment agreements

When a tax return has been filed and accepted by the IRS, the SRP reported by the taxpayer is systemically assessed; however, there is a one-week delay between the posting of the income tax return and the posting of the SRP on the Master File. During this time, the SRP liability is considered to be "pre-assessed." The SRP liability is assessed when it posts to the taxpayer's account on the Master File. It is important to differentiate between pre-assessed liabilities and assessed liabilities because the process for including them when establishing a new or revised installment agreement is different.

Specifically, because pre-assessed liabilities have not yet posted to the Master File, they may only be visible as a pending transaction on the taxpayers' related tax module on IRS processing systems. Therefore, employees must separately check to make sure there are no pre-assessed liabilities when establishing installment agreements or OICs. This is particularly important for the SRPs because, as discussed earlier in this report, the SRPs are assessed one week later than the associated income tax return liabilities. As a result, there is a higher risk that pre-assessed SRP liabilities will be excluded when employees are establishing an installment agreement for other tax assessments. Whether the SRP is assessed or pre-assessed, it should be included in any new, revised, or reinstated installment agreement or new OIC.

We reviewed a random sample of 43 cases in which taxpayers with pre-assessed Tax Year 2014 SRP liabilities also had a separate tax liability that was included in a new or revised installment agreement after June 18, 2015.[40] Our review determined that all 43 of the cases with pre-assessed SRP liabilities were not included in a new or revised installment agreement when it was set up, as required.[41] Further analysis showed that most (35 of 43) of these SRP liabilities were eventually either added to the installment agreement or were fully paid. However, the remaining SRP liabilities were not collected.

IRS management advised that they were aware that pre-assessed SRP liabilities were not always being included in new or revised installment agreements. After initial attempts to correct this problem through programming changes were not successful, in June 2015, management issued an alert to employees directing them to manually add the pre-assessed SRP module to the installment agreement at the time of set up. However, our review of SRP liabilities after that date showed that pre-assessed SRP liabilities were not added to the installment agreement at the time of set up.

Even though most of the pre-assessed SRP liabilities were later added to the new or revised installment agreement, these cases required additional IRS resources and potentially caused taxpayer burden. For example, in some cases, taxpayers continued receiving notices and had to

[40] See footnote 39 and Appendix I for more detail on how we obtained our population and sample.
[41] We did not identify any reinstated installment agreements for taxpayers with pre-assessed SRP liabilities in our sample.

contact the IRS to add the SRP to their installment agreement. In other cases, the IRS performed a manual check to identify and correct these SRP liabilities, which required additional time and resources. For cases that were not added to an installment agreement or were not fully paid, taxpayers were potentially burdened because interest continued to accrue on the liabilities. We confirmed that IRS management later added these SRP liabilities to the existing installment agreements, where appropriate.

Management advised that they plan to perform a systemic cleanup to correct any installment agreements that did not pick up the pre-assessed Tax Year 2014 SRP liability, as well as perform another manual check to ensure that all corrections were made. Management initiated a programming change that will allow a pre-assessed indicator to be placed on SRP liabilities so that they can be systemically included on installment agreements. This change will be implemented in July 2016.

Our analysis of 403 taxpayers who had an OIC accepted after the SRP was either pre-assessed or assessed showed that the majority of these SRP liabilities were included in the OIC (268 cases) or were fully paid (129 cases).[42] We did not identify any pre-assessed SRP liabilities that were not included in the OIC.

In addition to the problems with pre-assessed SRP liabilities, our review showed assessed SRPs were similarly not always included in new, revised, reinstated, or restored installment agreements and new OICs, as required.

Assessed SRP liabilities were not always included in new, revised, or restored installment agreements or new offers in compromise

We reviewed a random sample of 55 cases in which taxpayers with assessed Tax Year 2014 SRP liabilities also had a separate tax liability that was included in a new, revised, or restored[43] installment agreement.[44] We determined that in 23 of 55 cases, the assessed SRP liability was not included in the installment agreement as required. Further analysis showed that in:

- 14 cases, the system attempted but failed to add the SRP liability to the installment agreement during the same week the SRP was systemically closed as CNC-Recess.
- 5 cases, the SRP liability was closed below tolerance.[45] These taxpayers had other tax liabilities in the notice stream being worked by the Collection function. The other tax

[42] See Appendix I for more detail on how we obtained our population.
[43] IRS management stated that a restored installment agreement is similar to a reinstated installment agreement, but restored installment agreements are processed systemically.
[44] See footnote 39 and Appendix I for more detail on how we obtained our population and sample.
[45] IRM 5.19.1.1.6 (Sep. 23, 2015) states that taxpayers' liabilities are closed below tolerance when the taxpayer's aggregate unpaid balance (including the SRP) is less than a determined threshold. However, IRS management advised us that programming closes liabilities below tolerance when that individual module balance is less than a determined threshold.

liabilities were included in a new installment agreement after the SRP liability was closed as below tolerance, but the SRP was not included.

- 4 cases, the SRP liability was not included in the revised or restored installment agreements when they were set up.

For the 14 cases, the system attempted but failed to add the SRP liability to the installment agreement. In these cases, the SRP was systemically closed as CNC-Recess because the system recognized the SRP as a standalone because the taxpayer's other tax liability was still in the notice stream. IRS management advised us that the system automatically defaulted to CNC-Recess rather than the installment agreement because both closures occurred the same week. IRS management implemented a programming change in January 2016 (discussed in more detail in the following section) to hold the SRP liability in notice status longer, which they believe will greatly reduce the likelihood of a CNC-Recess and an installment agreement posting during the same week. We confirmed that IRS management took corrective action on six of the 14 cases to include the SRP liability in the taxpayers' installment agreements. For the other eight cases, corrective action was not necessary because the SRPs were either later added to the installment agreement, fully paid, or the installment agreement had since defaulted.

For five cases, IRS management stated that all tax modules closed as below tolerance, including SRP modules, are not systemically added to new or revised installment agreements. Management agreed to add these SRP liabilities to the installment agreements. Management also stated that they will be implementing programming in July 2016 to block SRP liabilities from closing as below tolerance.

For the remaining four cases that were not included in the revised or restored installment agreements at the time the installment agreements were set up, the taxpayers' other tax modules had a pre-assessed indicator placed on them so that they could be systemically included on the installment agreement after they were assessed. However, programming was not in place to also add a pre-assessed indicator on the SRP liability. In all four of these cases, after both the tax and SRP liabilities were assessed, the taxpayer's tax liabilities systemically moved into the installment agreement due to the pre-assessed indicator, while the SRP liabilities continued to move through the notice stream. We confirmed that IRS management took corrective action to add these SRP liabilities to the installment agreement where appropriate. IRS management's programming changes that will be implemented in July 2016 to allow the pre-assessed indicator to be added to the SRP liability should resolve this problem in the future.

In addition, our analysis of the 403 taxpayers who had an OIC accepted after the SRP was either pre-assessed or assessed identified four taxpayers with assessed SRP liabilities that were not properly included in the new OIC.[46] IRS management stated that three of the SRP liabilities were excluded due to human error. Collection Policy function management notified OIC program managers to remind employees to make sure all unpaid modules are included at the time

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[46] See Appendix I for more detail on how we obtained our population.

an offer is accepted. ********************1************************************** *************** *1****************.[47] ********************1******************* ***************************************1************************************** *********1**********. IRS management is taking corrective action to add all four of these SRP liabilities to the taxpayers' OICs, where appropriate.

Recommendation

The Director, Collection, Small Business/Self-Employed Division, should:

Recommendation 1: Implement a programming change to ensure that SRP modules that were closed as below tolerance are included when establishing a new or revised installment agreement.

> **Management's Response:** IRS management agreed with the recommendation and stated that they have requested a programming change that will block SRP modules from being closed as below tolerance.

Some Shared Responsibility Payment Liabilities Were Prematurely Moved to Currently Not Collectible Status

Standalone SRP liabilities that are not resolved in the notice stream are systemically recessed by Tax Delinquent Account analysis due to the limited collection actions the IRS can take on SRP liabilities. In other words, routine collection activities will temporarily stop when liabilities exit the balance due notice stream. Specifically, five weeks after the third balance due notice has been issued, standalone SRP liabilities are systemically closed as CNC-Recess. This process prevents these liabilities from moving into the inventory of other collection streams such as the ACS and Field Collection. SRP liabilities that are not standalone continue past the third notice and follow normal processes to be issued to the ACS, Field Collection, or the Collection Queue.[48]

We reviewed a random sample of 30 cases from a population of SRP liabilities that were closed as CNC-Recess.[49] Analysis showed that 13 of 30 cases were prematurely closed as CNC-Recess. In all 13 cases, the SRP liabilities were closed as CNC-Recess while the taxpayer's related Tax

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[47] ***1** *************1***************.

[48] If an additional SRP balance due occurs in a subsequent year, and still no other liabilities with a different Master File Tax code have been assessed, the additional subsequent SRP is still considered a standalone SRP. IRM 5.19.6.12.1(5) (Jan. 1, 2015).

[49] We selected our sample of 30 cases from a population of 176,403 taxpayers with an SRP liability that had a CNC-Recess closing code before August 27, 2015. Our sample was based on a confidence interval of 90 percent with an expected error rate of 7 percent and a precision of ± 5.6 percent. See Appendix I for more detail on how we obtained our population.

Year 2014 tax liabilities were still in the notice stream. These SRP liabilities followed programming rules at the time because there were no related delinquent modules assigned to the ACS, the Collection Queue, or Field Collection. Six of the 13 cases were later fully paid, added to an installment agreement, or moved to the ACS with the taxpayer's other tax modules. The remaining seven of 13 cases were still in CNC-Recess status. However, these SRP liabilities are still subject to refund offset and if the other modules are sent to ACS or Field Collection, then ACS employees are required to work all outstanding modules for each taxpayer, even those that are in CNC status.

IRS management advised us that they identified a problem with SRP liabilities being prematurely closed as CNC-Recess after exiting the balance due notice stream. Specifically, the Inventory Delivery System was, in some cases, recessing SRP liabilities that were identified as standalone liabilities because there were no other related delinquent modules assigned to the ACS, the Collection Queue, or Field Collection.[50] IRS management stated that this problem occurred when the non-standalone SRP liability exited the balance due notice stream before the related tax liability because the IRS generally sends fewer notices for the SRP.[51] Therefore, when the SRP liability exited the notice stream, the Inventory Delivery System did not find any other related delinquent modules assigned to ACS, the Collection Queue, or Field Collection and closed the SRP liability as CNC-Recess.

In January 2016, IRS management implemented programming changes to delay the SRP liability from moving out of third notice status for eleven weeks, instead of four weeks, which will result in the SRP liability exiting the notice stream two weeks after the tax liability. This change will allow any related tax liability to process through Tax Delinquent Account analysis so that the Inventory Delivery System can make the correct systemic standalone determination on the SRP liability. The IRS believes this change should prevent most SRP modules from recessing prematurely.

SRP liabilities that are recessed will still be subject to refund offset. In addition, if the taxpayer has another tax liability assessed that is later assigned to the ACS or Field Collection, employees are required to work the recessed SRP liability at the same time. Because the IRS has taken corrective action for this problem, we are not making a recommendation.

Misapplied Estimated Payments Created Incorrect Credit Balances for Tax Year 2015 Shared Responsibility Payment Modules

Our analysis of delinquent SRP liabilities as of August 27, 2015, identified 94 SRP modules with zero or credit balances totaling $92,141 for Tax Year 2015. The SRP is a penalty that is assessed

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[50] At the time of recess, the SRP met the programming definition of a standalone module.

[51] As discussed earlier in the report, SRP liabilities do not receive the Computer Paragraph 504 - Final Balance Due Notice. Not all taxpayers receive all notices, depending on the circumstance of the case. For example, taxpayers with additional outstanding liabilities may not receive all four notices.

after the return is filed. Because Tax Year 2015 returns were not filed until Calendar Year 2016, there should have been no Tax Year 2015 SRP modules in our analysis of Tax Year 2014 data.

IRS management advised that these Tax Year 2015 SRP liabilities were misapplied estimated tax payments; they were either misapplied subsequent payments for a Tax Year 2014 SRP module or misapplied estimated tax payments that should have gone to other tax modules. This occurred because taxpayers selected the wrong tax type or tax year when making a payment on the Electronic Federal Tax Payment System.

IRS management stated that they took action to correct these taxpayer errors; however, they are not considering programming changes to block these errors from occurring. Instead, IRS Submission Processing programmers changed the wording on the Electronic Federal Tax Payment System to clarify what tax type to select when making a payment.

While these SRP modules had small balances, they were applied incorrectly. For example, taxpayers attempting to make a Tax Year 2015 estimated tax payment but selected the wrong tax type, such as the SRP, may have to pay a penalty for underpayment of estimated tax until a correction has been made. The taxpayer may be further burdened by having to contact the IRS to correct the error.

Recommendation

The Director, Collection, Small Business/Self-Employed Division, should:

Recommendation 2: Ensure that the Tax Year 2015 SRP modules with misapplied payments are corrected and monitor the situation until it is clear that the problem has been solved.

> ***Management's Response:*** IRS management agreed with the recommendation and stated that they have corrected the Tax Year 2015 SRP modules with misapplied payments and will continue to use existing processes to resolve accounts with outstanding credit balances.

Appendix I

Detailed Objective, Scope, and Methodology

Our overall objective was to determine whether the IRS has adequate controls and procedures in place to properly collect delinquent SRPs and delinquent APTC repayments. To accomplish our objective, we:

I. Identified the IRS procedures, guidelines, strategies, measures, and goals in place for collecting delinquent APTC repayments and delinquent SRPs.

   A. Reviewed IRM procedures for Collection function employees handling cases that involve delinquent SRPs and APTC repayments.

   B. Interviewed Small Business/Self-Employed Division Collection function management in Ft. Myers, Florida, and discussed existing and developing procedures and guidelines for collecting delinquent APTC repayments and delinquent SRPs.

   C. Conducted a site visit to the Kansas City, Missouri, and Philadelphia, Pennsylvania, Campuses and local Field Collection offices to interview ACS and Field Collection employees and observe how delinquent APTC and SRP cases are worked and how improper enforcement actions are prevented.

   D. Reviewed ACA Joint Implementation Team meeting minutes and related documentation discussing ACA SRP and APTC policy decisions, strategies, measures, and goals.

II. Analyzed APTC and SRP data for trends for Tax Year 2014 as of August 2015.

   A. Identified a population of 1,588,675 taxpayers with an APTC repayment reported on the tax return by querying the Data Center Warehouse Individual Return Transaction File as of August 20, 2015 (cycle 201533). We validated a random sample of 25 cases from the population by comparing specific data to the Integrated Data Retrieval System to ensure accuracy. We determined that the data were sufficiently reliable.

      1. Filtered the population data in Step II.A. and identified a subpopulation of 602,689 taxpayers with balance due modules that included APTC repayments.

      2. Analyzed the subpopulation to determine the dollar amounts of balance due modules resulting from Tax Year 2014 returns and whether those taxpayers' incomes were above or below the APTC repayment limit.

   B. Identified a population of 7,649,443 taxpayers with an SRP module using Individual Master File (IMF) data provided by Strategic Data Services (SDS) as of

August 27, 2015 (cycle 201534). We validated a random sample of 25 cases from the population by comparing specific data to the Integrated Data Retrieval System to ensure accuracy. We determined that the data were sufficiently reliable.

1. Identified a subpopulation of 94 Tax Year 2015 SRP modules with zero dollar and credit balances.
2. Filtered the population data in Step II.B. and identified a subpopulation of 567,944 taxpayers with Tax Year 2014 balance due SRP modules.
3. Analyzed the subpopulation in Step II.B.2. to determine the current statuses of the SRP balance due modules as of December 31, 2015 (cycle 201552).

III. Determined whether the IRS applied the same standard collection methods to delinquent modules with the APTCs as are normally used in the collection of delinquent tax liabilities.

A. Analyzed the subpopulation of APTC repayment balance due taxpayers from Step II.A.1. by querying the Data Center Warehouse IMF transaction code data as of December 31, 2015, to determine whether any NFTLs were filed on the taxpayers' modules.

B. Analyzed the subpopulation of APTC repayment balance due taxpayers from Step II.A.1. by querying the Data Center Warehouse IMF transaction code data and the Integrated Collection System levy data as of December 31, 2015, to determine whether any levies were issued on the taxpayers' modules.

IV. Determined whether the IRS collected delinquent SRPs from taxpayers by any improper enforcement actions.

A. Analyzed the subpopulation of SRP balance due taxpayers from Step II.B.1. using IMF status and transaction code data provided by the SDS (as of August 27, 2015) to determine whether there were any NFTL or levy enforcement actions on SRP balance due modules.

B. Analyzed the subpopulation of SRP balance due taxpayers from Step II.B.1. using IMF transaction code data provided by the SDS (as of August 27, 2015) to determine whether there were any subsequent payments on SRP balance dues that came from levy proceeds.

V. Determined how SRP modules were treated compared to regular tax or penalty modules when the taxpayer had an existing installment agreement or OIC.

A. Analyzed the subpopulation of SRP balance due taxpayers from Step II.B.1 by querying the Data Center Warehouse IMF transaction code data and using the IMF status code data provided by the SDS (as of December 31, 2015) to determine if there were existing installment agreements on the taxpayers' other modules. We determined whether the SRP modules were fully paid or added to the existing installment agreement.

B. Analyzed the subpopulation of SRP balance due taxpayers from Step II.B.1 by querying the Data Center Warehouse IMF transaction code and tax module data (as of December 31, 2015) to determine whether there were accepted OICs on the taxpayers' other modules within five years of the SRP assessed date. We determined whether the SRP modules were fully paid.

VI. Determined whether delinquent SRP modules were properly added to installment agreements and OICs.

A. Identified 176,403 taxpayers (from the subpopulation in Step II.B.1. by using IMF transaction code data provided by the SDS) with an SRP balance due liability that went into CNC-Recess before August 27, 2015.

1. Selected a random sample of 30 taxpayer cases. We selected our sample using a confidence interval of 90 percent with an expected error rate of 7 percent and a precision of ± 5.6 percent. We selected a random sample to ensure that each taxpayer case had an equal chance of being selected.

2. Reviewed CNC-Recess closures on the SRP modules in the sample cases to determine whether the SRP was a standalone module at the time of the CNC-Recess closure.

B. Identified 3,085 taxpayers (from the subpopulation in Step II.B.1. by using IMF status code data provided by the SDS) with an SRP liability that was not in an installment agreement or fully paid as of August 27, 2015, and in which the taxpayer had a separate tax module that went into a new or revised installment agreement after June 18, 2015. Taxpayers identified had SRP modules that were both assessed and pre-assessed at the time the installment agreement was set up on the tax modules.[1]

1. Selected a random sample of 100 taxpayer cases. We selected our sample using a confidence interval of 90 percent with an expected error rate of 4 percent and a

[1] We reviewed cases after June 18, 2015, because it is one cycle after the IRS issued a manual programming fix for an installment agreement problem related to pre-assessed SRP liabilities.

precision of ± 6.5 percent. We selected a random sample to ensure that each taxpayer case had an equal chance of being selected.

2. Reviewed all 100 cases to determine whether the SRP liabilities were properly included on new or revised installment agreements.
3. Identified 43 SRP cases with pre-assessed liabilities, 55 SRP cases with assessed SRP liabilities, and ******************1************.

C. Identified 403 taxpayers (from the subpopulation in Step II.B.1. by querying the Data Center Warehouse IMF transaction code data and using the IMF status code data provided by the SDS as of December 31, 2015) with an SRP liability in which the taxpayer had one or more modules go into an accepted OIC after the SRP liability was assessed or pre-assessed.

1. Analyzed the subpopulation to determine whether the SRP modules were fully paid or included in the accepted OICs.

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 ACA restrictions related to SRP collection, IRM policies and procedures for collection of the SRP and excess APTC repayment, IRS programming controls related to SRP collection, and Compliance Services Collection Operations, ACS, and Field Collection procedures. We evaluated these controls by interviewing IRS employees and management, analyzing the population of SRPs and excess APTCs reported on taxpayers' Tax Year 2014 returns, and reviewing various samples of SRP cases.

Appendix II

Major Contributors to This Report

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Appendix III

Report Distribution List

Commissioner
Office of the Commissioner – Attn: Chief of Staff
Deputy Commissioner for Services and Enforcement
Deputy Commissioner, Small Business/Self-Employed Division
Director, Affordable Care Act Office
Director, Campus Collection, Small Business/Self-Employed Division
Director, Collection, Small Business/Self-Employed Division
Director, Collection Policy, Small Business/Self-Employed Division
Director, Field Collection, Small Business/Self-Employed Division
Director, Headquarters Collection, Small Business/Self-Employed Division
Director, Office of Audit Coordination

Appendix IV

Glossary of Terms

Term	Definition
Advance Premium Tax Credit	A payment made for coverage during the year to an insurance provider that pays for part or all of the premiums for the coverage of a taxpayer. APTC eligibility is based on the Marketplace's estimate of the PTC a taxpayer will be able to take on his or her tax return. If APTC was paid for a taxpayer, he or she must file Form 8962, *Premium Tax Credit*, to reconcile (compare) this APTC with his or her PTC. If the APTC is more than the PTC, the taxpayer has excess APTC that must be repaid, subject to certain limitations. If the PTC is more than the APTC, the taxpayer can reduce his or her tax payment or increase his or her refund by the difference.
Affordable Care Act	The comprehensive health care reform law enacted in March 2010. The law was enacted in two parts: The Patient Protection and Affordable Care Act was signed into law on March 23, 2010, and was amended by the Health Care and Education Reconciliation Act on March 30, 2010. The name "Affordable Care Act" is used to refer to the final, amended version of the law.
Assessment	A determination by the IRS that an amount of tax (including penalty, interest, *etc.*, if applicable) is owed by the taxpayer.
Automated Collection System	A telephone contact system through which telephone assistors collect unpaid taxes and secure tax returns from delinquent taxpayers who have not complied with previous notices.
Balance Due Module	Occurs when the taxpayer has an outstanding (unpaid) liability for taxes, penalties, or interest.
Below Tolerance	Cases are closed below tolerance when a taxpayer's aggregate unpaid balance (including the SRP) is less than a determined amount.

Term	Definition
Calendar Year	The period of time from January 1 to December 31.
Collection Queue	A function of the Integrated Data Retrieval System, the Collection Queue is a holding area where the IRS places cases awaiting assignment to Collection function personnel.
Compliance Services Collection Operations	An IRS function that mails balance due and return delinquency notices to taxpayers, and analyzes and responds to taxpayer correspondence. This function was formerly known as the Service Center Collection Branch.
Collection Statute Expiration Date	Each tax assessment has a collection statute expiration date. I.R.C. Section 6502 provides that the length of the period for collection after assessment of a tax liability is 10 years. The collection statute expiration ends the Government's right to pursue collection of a liability.
Continuing Professional Education	An educational program that is provided to employees to keep them informed on the latest changes or updates regarding subject matters related to their job position.
Currently Not Collectible	Accounts can be declared CNC for numerous reasons including: bankruptcy, defunct, hardship, in-business, unable to locate, unable to contact, decedent, *etc.* Tax accounts are reported as CNC when the taxpayer has no income or assets which are, by law, typically subject to levy.
Data Center Warehouse	A Treasury Inspector General for Tax Administration Office of Information Technology function that obtains and stores numerous IRS data files and makes them available to auditors and investigators.
Delinquent	A tax account for which part or the entire amount owed to the IRS is overdue.
Delinquent Return	A tax return that a taxpayer does not file with the IRS by the due date (including extensions) for any year in which a filing requirement exists.
Department of Health and Human Services Poverty Guidelines	A simplification of the poverty thresholds for use for administrative purposes — for instance, determining financial eligibility for certain Federal programs.

Term	Definition
Electronic Federal Tax Payment System	A free service from the U.S. Department of the Treasury. Since it began in 1996, millions of businesses, individuals, Federal agencies, tax professionals, and payroll services have used the Electronic Federal Tax Payment System. All Federal taxes can be paid using the Electronic Federal Tax Payment System. Taxpayers can make payments via the website, a voice response system, or special channels designed for tax professionals, payroll services, and financial institutions. Quick, secure, and accurate, the Electronic Federal Tax Payment System is available by telephone or online 24 hours a day, seven days a week. Taxpayers can schedule business and individual payments up to 365 days in advance.
Field Collection	The unit in the Area Offices consisting of revenue officers who handle face-to-face contacts with taxpayers to collect delinquent accounts or secure unfiled returns.
Health Insurance Marketplace (Exchange)	A resource where individuals, families, and small businesses can: learn about their health coverage options; compare health insurance plans based on costs, benefits, and other important features; choose a plan; and enroll in coverage. The Exchange also provides information on programs that help people with low- to moderate-income and resources pay for coverage. This includes ways to save on the monthly premiums and out-of-pocket costs of coverage available through the Exchange, and information about other programs, including Medicaid and the Children's Health Insurance Program. The Exchange encourages competition among private health plans, and is accessible through websites, call centers, and in-person assistance. In some States, the Exchange is run by the State. In others, it is run by the Federal Government.
Household Income	Household income is the modified adjusted gross income of a taxpayer and his or her spouse (if filing a joint return) plus the modified adjusted gross income of each individual in the tax family that is claimed as a dependent and is required to file a tax return because his or her income meets the income tax return filing threshold. Household income does not

Term	Definition
	include the modified adjusted gross income of those individuals who are claimed as dependents and who are filing a Tax Year 2014 return only to claim a refund of withheld income tax or estimated tax.
Individual Income Tax Returns	Form 1040, *U.S. Individual Income Tax Return*, series are annual income tax returns filed by citizens or residents of the United States.
Individual Master File	The IRS database that maintains transactions or records of individual tax accounts.
Individual Return Transaction File	An IRS database that maintains data transcribed from initial input of the original individual tax returns during return processing.
Installment Agreement	An agreement by which the IRS allows taxpayers to pay the tax they owe in monthly installments instead of immediately paying the full amount. A revised installment agreement is an agreement that is changed to include additional tax balances. A reinstated installment agreement is an agreement that is put back into place manually, after the existing agreement defaulted, when a particular set of criteria are met. A restored installment agreement is an agreement that is put back into place systemically, after an existing agreement defaulted, when a particular set of criteria are met.
Integrated Collection System	An IRS computer system with applications designed around each of the main collection tasks such as opening a case, assigning a case, building a case, performing collection activity, and closing a case. The system is designed to provide management information, create and maintain case histories, generate documents, and allow online approval of case actions. NFTL requests made using the Integrated Collection System are uploaded to the Automated Lien System. The Automated Lien System generates the NFTL and related NFTL notices and updates the IRS's primary computer files to indicate the NFTLs have been filed.
Integrated Data Retrieval System	An online data retrieval and data entry system that processes transactions entered from terminals located in campuses and other IRS locations. It enables employees to perform such

Term	Definition
	tasks such as researching account information, requesting tax returns, entering collection information, and generating collection documents. The Integrated Data Retrieval System serves as a link from campuses and other IRS locations to the Master File for the IRS to maintain accurate records of activity on taxpayers' accounts.
Internal Revenue Code	Title 26 of the United States Code enacted by Congress containing all relevant rules pertaining to estate, excise, gift, income, payroll, and sales taxes.
Internal Revenue Manual	The official source of information on policies and procedures for use by all IRS offices.
Inventory Delivery System	The inventory delivery system for collection cases. The Inventory Delivery System uses proven analytical scoring models and a business rules engine to route cases to the ACS, the Collection Queue, or direct field assignment.
Levy	A method used by the IRS to collect outstanding taxes from sources such as bank accounts and wages.
Master File	The IRS database that stores various types of taxpayer account information. This database includes individual, business, and employee plans and exempt organizations data.
Minimum Essential Coverage	Basic health insurance coverage required by the individual shared responsibility provision of the ACA. MEC is health insurance coverage that contains essential health benefits including emergency services, maternity and newborn care, and preventive and wellness services. MEC also includes doctor visits, hospitalizations, mental health care services, and prescription drugs.
Module/Tax Module	Refers to one specific tax return filed by the taxpayer for one specific tax period (year or quarter) and type of tax.
Notice	Computer-generated messages resulting from an analysis of the taxpayer's account on the Master File. These include notices of assessments of tax, adjustments, balances due, or overpayments that are refunded to taxpayers.
Notice of Federal Tax Lien	A notice filed with the appropriate local government office, protecting the Federal Government's interest in the

Term	Definition
	taxpayer's assets by providing public notice of the amount of unpaid tax.
Notice Stream	A series of subsequent reminder notices, sent to a taxpayer if there is no response to the statutory notice. These reminder notices are sent requesting a taxpayer's voluntary compliance.
Offer in Compromise	An agreement between a taxpayer and the Government that settles a tax liability for payment of less than the full amount owed. A Doubt as to Collectability OIC is used when there is doubt that the tax can be paid in full. A Doubt as to Liability OIC is used when there is doubt that the liability is correct. An Effective Tax Administration OIC is used when there is no doubt that the liability is correct or can be paid in full; however, requiring the taxpayer to fully pay the tax would either create an economic hardship or be a public policy issue.
Premium Tax Credit	A tax credit that can help taxpayers afford health coverage through the Exchange. If taxpayers qualify for the PTC based on their income estimate, they can take advance payments of the credit to lower their monthly premium payment.
Processing Cycle/Cycle	The week within the calendar year that a return, document, or transaction is processed by the IRS.
Recess	Routine collection activities halt systemically for SRP modules five cycles after the third notice has been issued. SRP modules can also be recessed manually following guidance provided by the applicable functional area.
Reconcile/Reconciliation	Comparison (using Form 8962) of the PTC used in advance and the amount of tax credit the taxpayer qualifies for based on final income. The difference is either paid or credited with Federal tax filings.
Refund Return	A tax return in which the taxpayer has overpaid income taxes and is due a refund from the IRS.

Term	Definition
Revenue Officer	Employees in the field who attempt to contact taxpayers and resolve collection matters that have not been resolved through notices sent by the IRS campuses (formerly known as service centers) or the ACS.
Shared Responsibility Payment	A payment based on each month that an individual or their dependents is without MEC and does not qualify for an exemption. The annual payment amount for 2014 is the greater of: • One percent of the household income that is above the tax return threshold for the filing status. • A flat dollar amount of $95 per adult and $47.50 per child (under age 18) in the family, but no more than $285 per family.
Small Business/ Self-Employed Division	The IRS organization that services self-employed taxpayers and small businesses by educating and informing them of their tax obligations, developing educational products and services, and helping them understand and comply with applicable tax laws.
Standalone Module	Occurs when a balance due is created on an SRP module and there is no other module in the ACS, Integrated Collection System, or Collection Queue, or in a delinquent return status.
Strategic Data Services	The organization within the Treasury Inspector General for Tax Administration that uses computer code to extract data from IRS systems not readily available to auditors.
Strategic Data Services Extract	Data received from the SDS from an IRS system not readily available to auditors on the Data Center Warehouse.
Tax Year	A 12-month accounting period for keeping records on income and expenses used as the basis for calculating the annual taxes due. For most individual taxpayers, the tax year is synonymous with the calendar year.

Appendix V

Management's Response to the Draft Report

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

COMMISSIONER
SMALL BUSINESS/SELF-EMPLOYED DIVISION

AUG 22 2016

MEMORANDUM FOR MICHAEL E. McKENNEY
DEPUTY INSPECTOR GENERAL FOR AUDIT

FROM: Karen Schiller
Commissioner, Small Business/Self-Employed Division

SUBJECT: Draft Audit Report – With Minor Exceptions, Controls and Procedures for Collection of the Shared Responsibility Payment and Excess Advance Premium Tax Credit Were Effectively Established (Audit #201530333)

Thank you for the opportunity to review the above subject draft report. We appreciate your recognition of the IRS's efforts to ensure that appropriate training, procedures and controls were put into place for the collection of delinquent Shared Responsibility Payments (SRPs) and excess Advance Premium Tax Credit Repayments (APTCs) relating to the Affordable Care Act (ACA).

While applying the provisions of new legislation is often challenging, in this situation, the law limits the IRS' use of traditional enforcement methods for collecting the SRP. A multi-functional team at the IRS worked to develop procedures; to identify all impacted systems and establish the necessary programming; to design new letters, forms and publications; and to train our employees and ensure they had the necessary guidance. We are pleased that TIGTA found no instances of prohibited enforcement action to collect SRPs and no instances of improper actions related to repayment of excess APTCs.

TIGTA did identify some isolated systemic issues. For example some SRP liabilities were not included in new, revised, or reinstated installment agreements (IAs) or in new offers in compromise (OICs) as IRS policy requires. Some other SRP liabilities were prematurely moved to a currently not collectible status. We were aware of those issues and are implementing programming fixes that we believe will correct most of these problems. TIGTA also found that some taxpayers' estimated payments were misapplied due to taxpayer error, creating incorrect credit balances for tax year 2015 SRP liabilities. We believe the changes we have made to the Electronic Federal Tax Payment System web page (which taxpayers use to make estimated tax payments) will significantly reduce the incidence of this problem.

IRS made a policy decision not to default existing IAs and OICs for SRP liabilities since the SRP is not subject to enforcement actions. TIGTA noted a concern that this policy is inconsistent with IRS' policy requiring taxpayers to be in compliance with all other tax liabilities as a condition for avoiding IA and OIC default, and may increase the risk that taxpayers will accumulate multiple unpaid SRPs while continuing to maintain existing IAs and OICs. We will continue to monitor the data on this and may revisit this policy at a later time if that is found to be warranted.

We agree with your recommendation to ensure SRP modules that were closed as below tolerance are included when establishing a new or revised installment agreement. We have requested programming to accomplish this. We also agreed to ensure that the 2015 SRP modules with misapplied payments were corrected and have completed that action.

Attached is a detailed response outlining your recommendations, our corrective actions and supporting statements. If you have any questions, please contact me, or a member of your staff may contact, Scott Prentky, Director Collection at (954) 991-4326.

Attachment

Attachment

RECOMMENDATION 1:
The Director, Collection, Small Business/Self-Employed Division, should implement a programming change to ensure SRP modules that were closed as below tolerance are included when establishing a new or revised installment agreement.

CORRECTIVE ACTION:
We agree with this recommendation. We have requested a programming change that will block SRP modules from moving into a "below tolerance" status.

IMPLEMENTATION DATE:
December 15, 2016

RESPONSIBLE OFFICIAL:
Director, Collection Policy, Small Business/Self-Employed Division

CORRECTIVE ACTION MONITORING PLAN:
IRS will monitor this corrective action as part of our internal management system of controls.

RECOMMENDATION 2:
The Director, Collection, Small Business/Self-Employed Division, should ensure that the Tax Year 2015 SRP modules with misapplied payments are corrected and monitor the situation until it is clear that the problem has been solved.

CORRECTIVE ACTION:
We agree with this recommendation and have already corrected the 2015 SRP modules with misapplied payments. We will continue to use our existing processes to resolve accounts with outstanding credit balances.

IMPLEMENTATION DATE:
Implemented

RESPONSIBLE OFFICIAL:
Director, Accounts Management, Customer Account Services, Wage and Investment Division

CORRECTIVE ACTION MONITORING PLAN:
N/A