Fiscal Year 2019 Statutory Audit of Compliance With Legal Guidelines Restricting the Use of Records of Tax Enforcement Results

September 4, 2019

Reference Number: 2019-30-056

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HIGHLIGHTS

FISCAL YEAR 2019 STATUTORY AUDIT OF COMPLIANCE WITH LEGAL GUIDELINES RESTRICTING THE USE OF RECORDS OF TAX ENFORCEMENT RESULTS

Highlights

Final Report issued September 4, 2019

Highlights of Reference Number: 2019-30-056 to the Commissioner of Internal Revenue.

IMPACT ON TAXPAYERS

The IRS Restructuring and Reform Act of 1998 (RRA 98) requires the IRS to ensure that managers do not evaluate enforcement employees using any record of tax enforcement results (ROTER) or base employee successes on meeting ROTER goals or quotas. Use of ROTERs may create the misperception that safeguarding taxpayer rights is secondary to IRS enforcement results.

WHY TIGTA DID THE AUDIT

TIGTA is required under Internal Revenue Code Section 7803(d)(1) to annually determine whether the IRS complied with restrictions on the use of enforcement statistics to evaluate employees as set forth in RRA 98 Section 1204.

WHAT TIGTA FOUND

TIGTA found instances of noncompliance with RRA 98 Section 1204 requirements. From a sample, TIGTA identified instances of noncompliance with each of the following subsections of the law:

- Section 1204(b) – 27 instances in which 20 IRS managers failed to either maintain the retention standard documentation or ensure that it was appropriately signed and dated.
- Section 1204(c) – 32 instances in which 11 IRS managers did not properly certify in writing to the IRS Commissioner whether ROTERs and/or production quotas or goals were used in a prohibited manner.

TIGTA also identified 18 Code of Federal Regulations Section 430.206 policy violations in which four pertinent documents pertaining to Section 1204(b) were not signed and dated until the last 60 days of the rating period, and 14 pertinent documents pertaining to Section 1204(b) were signed and dated after the rating period ended.

Furthermore, 14 managers were missing from the Fiscal Year 2018 Section 1204 employee and manager list, and a total of 466 employees and managers did not complete or did not timely complete the mandatory Section 1204 training.

WHAT TIGTA RECOMMENDED

TIGTA recommended that the IRS ensure that the potential RRA 98 Sections 1204(b) and (c) violations identified in this report are discussed with the responsible managers; the managers identified in this report are notified to properly designate themselves as Section 1204 personnel; and the mandatory Section 1204 training is assigned and completed within 90 calendar days.

The IRS confirmed that the potential RRA 98 Sections 1204(b) and (c) violations identified in this report were discussed with the responsible managers. The IRS also responded that its Section 1204 Communication Plan includes outreach messages to all managers to ensure that Section 1204 managers are aware of the requirement to update HR Connect with the Section 1204 indicator.

The IRS did not agree to ensure that managers identified in this report understood Code of Federal Regulations Section 430.206 policy violations. In its response, the IRS stated that timeliness of receipt/acknowledgement and evaluation for the performance standard is not a Section 1204 requirement. TIGTA believes that a violation of these regulations impedes the IRS's ability to comply with Section 1204(b). In order for the IRS to evaluate its employees in the proper manner, the employees need to know on what they are being evaluated, and the manager needs to provide documentation to employees regarding the standards for the appraisal.

TREASURY INSPECTOR GENERAL
FOR TAX ADMINISTRATION

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

September 4, 2019

MEMORANDUM FOR COMMISSIONER OF INTERNAL REVENUE

Michael E. McKenney

FROM: Michael E. McKenney
Deputy Inspector General for Audit

SUBJECT: Final Audit Report – Fiscal Year 2019 Statutory Audit of Compliance With Legal Guidelines Restricting the Use of Records of Tax Enforcement Results (Audit # 201930014)

This report presents the results of our review to determine whether the Internal Revenue Service (IRS) complied with restrictions on the use of enforcement statistics to evaluate employees as set forth in IRS Restructuring and Reform Act of 1998 (RRA 98) Section 1204.[1] The Treasury Inspector General for Tax Administration is required under Internal Revenue Code Section 7803(d)(1) to annually evaluate the IRS's compliance with the provisions of RRA 98 Section 1204. The RRA 98 requires the IRS to ensure that managers do not evaluate enforcement employees using any record of tax enforcement results (ROTER) or base employee successes on meeting goals or quotas for ROTERs.[2] This review is included in our Fiscal Year 2019 Annual Audit Plan and addresses the major management challenge of Protecting Taxpayer Rights.

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

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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[1] Pub. L. No. 105-206, 112 Stat. 685.
[2] An enforcement (Section 1204) employee is an employee or any manager of an employee who exercises judgment in recommending or determining whether or how the IRS should pursue enforcement of the tax laws or who provides direction/guidance for RRA 98 Section 1204 program activities.

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Abbreviations

IRM	Internal Revenue Manual
IRS	Internal Revenue Service
ROTER	Record of Tax Enforcement Results
RRA 98	Restructuring and Reform Act of 1998
TIGTA	Treasury Inspector General for Tax Administration

Background

On July 22, 1998, the President signed the Internal Revenue Service (IRS) Restructuring and Reform Act of 1998 (RRA 98) into law.[1] RRA 98 Section (§) 1204 restricts the use of enforcement statistics to evaluate employees or to impose or suggest production quotas or goals. Specifically, RRA 98 § 1204(a) restricts the use of enforcement statistics and prohibits the IRS from using any record of tax enforcement results (ROTER) to evaluate employees or to impose or suggest production quotas or goals, or base employee successes on meeting ROTER goals or quotas.

The IRS defines ROTERs as data, statistics, compilations of information, or other numerical or quantitative recording of the tax enforcement results reached in one or more cases. Examples of ROTERs include the amount of dollars collected or assessed, the number of fraud referrals made, the number of seizures conducted, *etc*. A ROTER does not include evaluating an individual case to determine if an employee exercised appropriate judgment in pursuing enforcement of the tax laws based on a review of the employee's work on that individual case.

RRA 98 § 1204(b) requires employees to be evaluated using the fair and equitable treatment of taxpayers as a performance standard. The IRS refers to this standard as the retention standard. The retention standard requires employees to administer the tax laws fairly and equitably, protect all taxpayers' rights, and treat each taxpayer ethically with honesty, integrity, and respect. This provision of the law was enacted to provide assurance that employee performance is focused on providing quality service to taxpayers instead of achieving enforcement results.

RRA 98 § 1204(c) requires each appropriate supervisor to perform a quarterly self-certification. In the self-certification, the appropriate supervisor attests to whether ROTERs or production quotas or goals were used in a prohibited manner. The IRS defines an appropriate supervisor as the Section 1204 executive in an operating/functional division who directly or indirectly supervises one or more Section 1204 enforcement employees.[2] Current IRS procedures require each level of management, beginning with first-line managers of Section 1204 employees, to self-certify that they have not used ROTERs in a manner prohibited by RRA 98 § 1204(a). The appropriate supervisor then prepares a consolidated office certification covering the entire organizational unit.

IRS functional offices and operating divisions, including Appeals; Criminal Investigation; the Large Business and International, the Small Business/Self-Employed, the Tax Exempt and

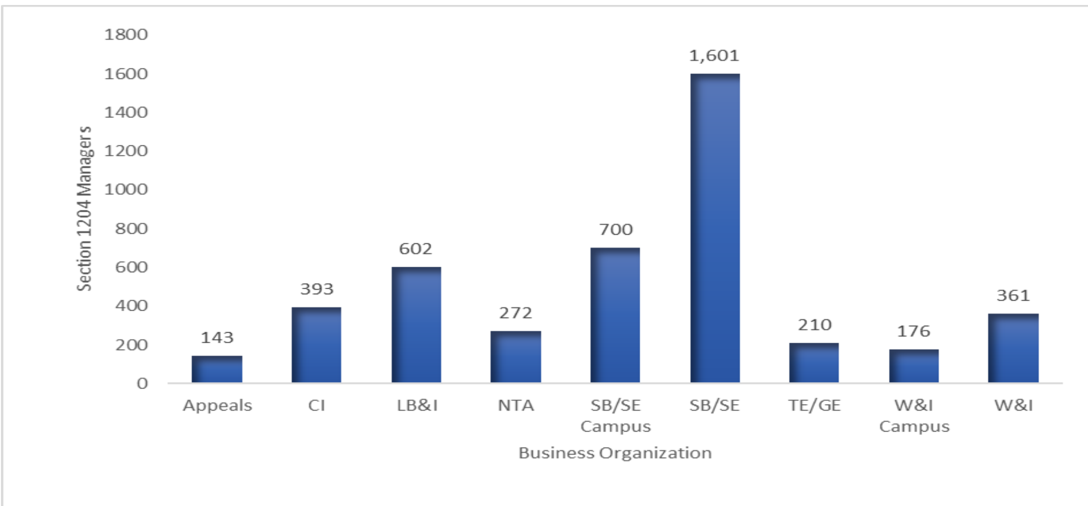
[1] Pub. L. No. 105-206, 112 Stat. 685.

[2] An enforcement (Section 1204) employee is an employee or any first-line manager of an employee who exercises judgment in recommending or determining whether or how the IRS should pursue enforcement of the tax laws or whose duties involve providing direction/guidance for programs involving Section 1204 work activities.

Government Entities, and the Wage and Investment Divisions; and the National Taxpayer Advocate are responsible for implementing the Section 1204 program within their respective organization. Section 1204 program managers and program coordinators in each business organization are available to provide guidance to managers regarding Section 1204 issues, including the self-certification process.

As of October 1, 2018, there were 4,458 Section 1204 managers on the employee and manager list provided by the IRS. Section 1204 managers have either supervised a Section 1204 employee or provided guidance or direction for Section 1204 activities. Figure 1 shows how Section 1204 managers are dispersed across the various business organizations within the IRS.

Figure 1: Number of Section 1204 Managers by Business Organization (as of September 30, 2018)[3]



Source: Treasury Inspector General for Tax Administration (TIGTA) analysis of data from the IRS's HR Connect[4] Section 1204 manager list.

Internal Revenue Code § 7803(d)(1) requires TIGTA to determine annually whether the IRS is in compliance with restrictions on the use of enforcement statistics under RRA 98 § 1204. TIGTA has previously performed 20 annual reviews to meet this requirement. Appendix IV lists the six most recent audit reports related to this statutory review.

This review was performed at the Office of the Chief, Appeals; the Office of the IRS Human Capital Officer; the Office of the Chief, Criminal Investigation; the Office of the National Taxpayer Advocate; the Large Business and International Division; the Small Business/Self-Employed Division; the Tax Exempt and Government Entities Division; and the

[3] CI = Criminal Investigation, LB&I = Large Business and International Division, SB/SE = Small Business/Self-Employed Division, NTA = TAS = Taxpayer Advocate Service, TE/GE = Tax Exempt and Government Entities Division, W&I = Wage and Investment Division.

[4] See Appendix V for a glossary of terms.

Wage and Investment Division from October 2018 through April 2019.[5] Telephone interviews were also performed across many IRS field offices based on a stratified sample of employees and managers. We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective. Detailed information on our audit objective, scope, and methodology is presented in Appendix I. Major contributors to the report are listed in Appendix II.

[5] The Wage and Investment Division is located in Atlanta, Georgia. All other division Headquarters are located in Washington, D.C.

Results of Review

There Were Some Instances of Noncompliance With Section 1204(b) and (c) of the IRS Restructuring and Reform Act of 1998

The IRS is not permitted to use ROTERs or production goals or quotas to evaluate employees. However, the IRS was not in full compliance with RRA 98 § 1204 during Fiscal Year 2018. The following issues were identified:

- **Section 1204(b) – 27 instances of noncompliance** in which 20 IRS managers failed to either maintain the retention standard documentation or ensure that it was appropriately signed and dated.
- **Section 1204(c) – 32 instances of noncompliance** in which 11 managers did not properly certify in writing to the IRS Commissioner whether ROTERs and/or production quotas or goals were used in a prohibited manner.[6]

To evaluate the IRS's compliance with the Section 1204 provisions, we selected a stratified random sample of 30 managers and 121 employees from all employees and managers.[7] In all, we selected 151 employees/managers to determine the IRS's compliance with RRA 98 § 1204 provisions.

No evidence of IRS noncompliance with the prohibition on the use of ROTERs

In Fiscal Year 2018, we did not find evidence that the IRS was in noncompliance with RRA 98 § 1204(a). To evaluate the IRS's compliance with RRA 98 § 1204(a), we reviewed Fiscal Year 2018 performance documents, including available midyear and annual performance reviews, employee self-assessments, workload reviews, case reviews, and award documentation for the 151 employees and managers selected, as well as group meeting minutes. We reviewed these documents to determine whether ROTERs were used when evaluating the employees' performance or to impose or suggest quotas or goals for such employees.

Based on the results of our review, we did not find evidence that IRS managers are using ROTERs or production quotas or goals to evaluate employees. The IRS needs to remain diligent to ensure that ROTERs are not used to evaluate employees or suggest production quotas or goals

[6] This includes 29 missing quarterly self-certifications for nine managers.
[7] Stratified random samples mean dividing the population into two or more segments (strata) and taking a simple random sample from each stratum.

to ensure the fair and equitable treatment of taxpayers. The use of ROTERs may create the misperception that safeguarding taxpayer rights is secondary to IRS enforcement results.

In all of the Fiscal Year 2018 performance documents we reviewed, there were no ROTER violations. However, seven of the annual appraisals received did not have a narrative. According to the Internal Revenue Manual (IRM), a narrative is required in certain situations, one of which is when any critical job element is rated at the "Fully Successful" level or below or when any critical job element is rated lower than the previous year's rating.[8] We requested the Fiscal Year 2017 annual appraisals for the employees who did not have a narrative for Fiscal Year 2018. Based on the IRM criteria, four of the seven annual appraisals should have had an associated narrative.

In our sample of 151 Section 1204 employees and managers, 27 prepared a self-assessment. For those 27, we did not identify any instances in which a Section 1204 manager or employee self-assessment contained a ROTER. Completing a self-assessment is not required but should be encouraged. According to the IRM, it is IRS policy that bargaining unit and non–bargaining unit employees should not use ROTERs in their self-assessments.[9] While including ROTERs in self-assessments does not violate RRA 98 § 1204, it is a Section 1204(a) violation if a ranking official or panel uses the information in the ranking process or if a supervisor uses the information when evaluating employees' performance. If a self-assessment is submitted with a ROTER, it is incumbent upon the manager to return it to the employee for removal of the ROTER.[10]

We also contacted TIGTA's Office of Investigations and found ***********3************ regarding the use of ROTERs during Fiscal Year 2018. *****3***** was referred to the IRS for a management inquiry. The results *********3******** are pending.

Documentation that IRS managers are meeting the requirements of the retention standard needs improvement

To evaluate the IRS's compliance with RRA 98 § 1204(b), we requested the appropriate Fiscal Year 2018 retention standard documents applicable to the 121 selected employees and 30 selected managers. The IRS did not achieve full compliance with the documentation requirements for the retention standard as related to RRA 98 § 1204(b) in Fiscal Year 2018 for Criminal Investigation, the Large Business and International Division, the National Taxpayer Advocate, the Small Business/Self-Employed Division, the Tax Exempt and Government Entities Division, and the Wage and Investment Division. Specifically, we determined that:

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[8] IRM 6.430.2.4.6.1 (Oct. 5, 2017).
[9] IRM 1.5.2.11.2 (3) & (5) (May 10, 2012).
[10] IRM 1.5.2.11.2 (4) (May 10, 2012).

- Eight Employee Performance Files were missing Form 6774, *Receipt of Critical Job Elements and Fair and Equitable Treatment of Taxpayers Retention Standard*.
- Five Employee Performance Files included Form 6850-BU, *Bargaining Unit Performance Appraisal and Recognition Election*, in which the certification of rating section (including the Fair and Equitable Treatment of Taxpayers Retention Standard Rating) was not appropriately signed and dated by all parties.
- Two Employee Performance Files included Form 6774, in which the acknowledgement section (receipt of the Critical Job Elements, including the Fair and Equitable Treatment of Taxpayers Retention Standard) was not appropriately signed and dated by all parties.
- One Employee Performance File was missing Form 6850-BU.

For the managers, we found:

- Seven Manager Performance Files included Form 12450-A *Manager Performance Agreement*, in which the certification of rating section (including the Fair and Equitable Treatment of Taxpayers Retention Standard Rating) was not appropriately signed and dated by all parties.
- Two Performance Files included Form 12450-A, in which the acknowledgement section (receipt of the Critical Job Elements, including the Fair and Equitable Treatment of Taxpayers Retention Standard) was not appropriately signed and dated by all parties.
- One Performance Files included Form 12450-B, *Management Official Performance Agreement*, in which the acknowledgement section (receipt of the Critical Job Elements, including the Fair and Equitable Treatment of Taxpayers Retention Standard) was not appropriately signed and dated by all parties.
- One Manager Performance File was missing the Receipt of Critical Job Elements and Fair and Equitable Treatment of Taxpayers Retention Standard, Form 12450-B.

RRA 98 § 1204(b) requires employees to be evaluated using the fair and equitable treatment of taxpayers as a performance standard. The standard applies to all IRS Section 1204 executives, managers, and employees. Compliance with RRA 98 § 1204(b) is twofold—the receipt and acknowledgment of the retention standard and the annual performance rating related to the retention standard. At the beginning of each performance period, managers must provide the appropriate receipt of the retention standard form to their employees.[11] The manager must sign and date the appropriate form indicating the sharing of the retention standard with his or her employee and, in turn, the employee must acknowledge receipt of the retention standard by

[11] The appropriate documents for the receipt of the retention standard are Form 6774; Form 12450-A; Form 12450-B; Form 12450-D, *Management/Program Analyst Performance Agreement (For Positions Designated as Confidential Only)*; or Form TD F 35-07, *Executive Performance Agreement*.

signing and dating the form. At the end of the performance period, the employee must be evaluated on the retention standard using the appropriate appraisal form.[12]

The IRM states that RRA 98 § 1204(b) noncompliance occurs when:

- Documentation (either acknowledgment or rating) is not contained in the Employee Performance File and/or does not exist for the fiscal year of audit.
- Documentation (either acknowledgment or rating) does not contain all signatures and dates (employee, manager, and next-level manager).
- The retention standard rating is unchecked in the annual performance document.[13]

Further, the IRM requires both the receipt and acknowledgment of the retention standard and the performance ratings to be filed in the Employee Performance File and retained for four years.[14]

In addition, we identified 18 Code of Federal Regulations § 430.206 policy violations regarding Section 1204(b) from the National Taxpayer Advocate, the Small Business/Self-Employed Division, and the Tax Exempt and Government Entities Division. Pertinent documents pertaining to Section 1204(b) were not signed and dated until the last 60 days of the rating period in four instances and, in 14 instances, after the rating period ended.[15] Specifically, we found:

- Eight Employee Performance Files included Form 6850-BU; however, the certification of rating section (including the Fair and Equitable Treatment of Taxpayers Retention Standard Rating) was signed after the performance appraisal was due to the employee.
- Six Employee Performance Files included Form 6774; however, the acknowledgement section (receipt of the Critical Job Elements, including the Fair and Equitable Treatment of Taxpayers Retention Standard) within the form was signed after the rating period ended.
- Four Employee Performance Files included Form 6774; however, the acknowledgement section (receipt of the Critical Job Elements, including the Fair and Equitable Treatment of Taxpayers Retention Standard) within the form was not signed until the last 60 days of the rating period.

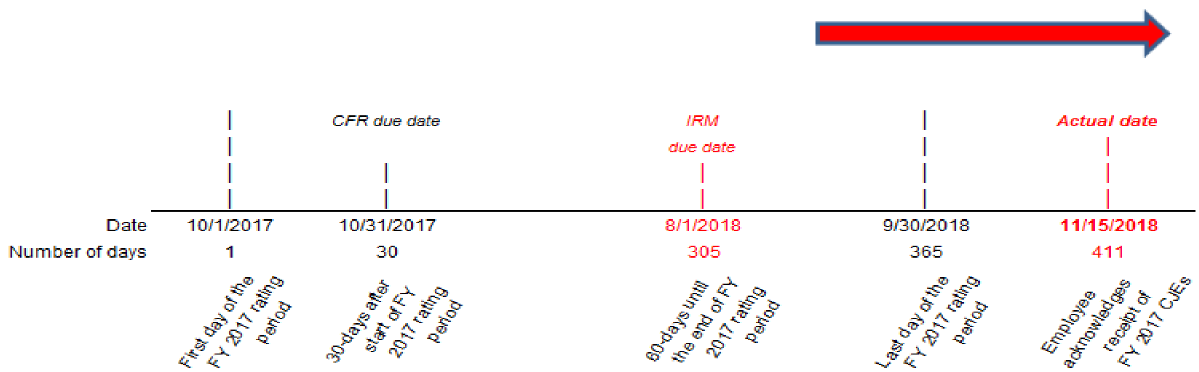
While timeliness and documentation noncompliance are not specifically addressed in Section 1204(b), the law requires the IRS to use the fair and equitable treatment of taxpayers as one of the standards for evaluating employee performance. However, in order for the IRS to evaluate its employees, 5 Code of Federal Regulations § 430.206 requires that an appraisal

[12] The appropriate appraisal forms are Form 6850-BU; Form 6850-NBU, *Non–Bargaining Unit Performance Appraisal*; Form 12450-A; Form 12450-B; Form 12450-D; or Form TD F 35-07.
[13] IRM 1.5.3.3.5(1) and (2) (Feb. 5, 2015).
[14] IRM 1.5.3.8(1) (Feb. 5, 2015).
[15] The minimum period of time for which an employee covered by a performance plan can receive a summary rating. For the majority of the IRS's workforce, except for executives, this period is 60 calendar days.

program be established that designates "an official appraisal period for which a performance plan shall be prepared, during which performance shall be monitored, and for which a rating of record shall be prepared." The Code of Federal Regulations also requires that performance plans be provided to employees at the beginning of each appraisal period, and that each performance plan includes all elements that are to be used in developing a summary rating, *i.e.*, an evaluation. In addition, the IRS's own IRM states that at the beginning of the rating period, employees must acknowledge receipt of the retention standard each year even if their performance standards have not changed from the prior year.[16]

Figure 2 is a hypothetical example of a Section 1204 employee acknowledging and signing Form 6774 after the end of his or her rating period in relation to the previously referenced timeliness policies.

Figure 2: Form 6774 Acknowledged and Signed After the Rating Period Ended



Source: TIGTA analysis of Code of Federal Regulations and IRS IRM procedures. CFR = Code of Federal Regulations, FY = Fiscal Year, CJE = Critical Job Elements.

As illustrated in Figure 2, Form 6774 was not signed or acknowledged within 30 days after the beginning of the rating period, nor 60 days before the rating period ended. In this illustration, the Section 1204 employee signed Form 6774 46 days after the rating period it pertained to ended. If employees are not informed of this performance requirement at the beginning of their performance rating period (or for at least a 60-calendar-day period during which they are being evaluated), IRS management would be unable to evaluate these Section 1204 employees on the Fair and Equitable Treatment of Taxpayers Retention Standard and potentially would be in noncompliance with the law. Without complete and proper documentation, we were unable to determine if some IRS employees were informed at the beginning of their performance rating period that the fair and equitable treatment of taxpayers was a performance requirement.

The IRS uses the discussion and acknowledgement of the retention standard and subsequent performance evaluations to ensure that all Section 1204 employees meet the provisions of the

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[16] IRM 1.5.3.3(5) (May 19, 2017).

standard and provide fair and equitable treatment to taxpayers. If managers are not adequately documenting these discussions with their employees, it is difficult to determine whether employees were aware of and/or actually received information on the retention standard. If managers fail to properly share the retention standard information with their employees, it can affect their employees' interactions with taxpayers as well as their understanding of the importance of safeguarding taxpayer rights.

Management Action: IRS management has taken action to reduce errors related to the standard for the Fair and Equitable Treatment of Taxpayers. Specifically, the IRS plans to implement a Performance Management module within the Integrated Talent Management system for the Form 6850-BU. The language contained in Form 6774 for the Retention Standards for the Fair and Equitable Treatment of Taxpayers will be incorporated into the Form 6850-BU performance appraisal template built into the Integrated Talent Management system Performance Management module. Once the IRS implements the Integrated Talent Management system Performance Management module, the paper Form 6774 will be obsolete. Section 1204 employees will be able to sign their performance plans to establish the plan and by signing, they will acknowledge receipt of performance standards and the retention standards for the fair and equitable treatment of taxpayers. The IRS believes that the systemic controls built into the Integrated Talent Management system will reduce and possibly eliminate the errors related to the standard for the Fair and Equitable Treatment of Taxpayers.

Many first-line manager quarterly self-certifications are missing

The IRS did not achieve full compliance in 32 quarterly self-certifications from Criminal Investigation; the National Taxpayer Advocate; and the Large Business and International, the Small Business and Self-Employed, and the Wage and Investment Divisions. These forms were incorrectly signed by the manager and/or next-level manager before the end of the quarter or the form was not located and provided by the IRS.[17] To evaluate the IRS's compliance with Section 1204(c), we requested all four quarterly self-certifications for the sampled managers. RRA 98 § 1204(c) requires Section 1204 supervisors to quarterly certify in writing to the IRS Commissioner whether ROTERs and/or production quotas or goals were used in a prohibited manner. Therefore, managers who evaluate Section 1204 employees are required to certify each quarter in writing that they did not:

- Use ROTERs in any written performance evaluations prepared or reviewed, including appraisals, awards, or promotion justifications.

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[17] The standard employee identifier is the five-digit code that uniquely ties employees to their data without using their Social Security Number. The IRS stated that each five-character alphanumeric code is used only once and remains unique to the individual to whom it is assigned throughout that individual's lifetime, even after they are no longer employed by the IRS.

- Use ROTERs to impose or suggest production quotas or goals with respect to field activities, *e.g.*, through program guidance or business and program reviews.
- Communicate to employees, either verbally or in writing that ROTERs affected their evaluations or were used to set individual/group production goals or quotas.

Per the IRM, the business organization and function Section 1204 program managers and their respective Section 1204 program coordinators are available to provide guidance to managers regarding Section 1204 issues, including the certification process.[18]

We reviewed the quarterly self-certifications that we obtained from the managers in our sample. Of these, we found:

- 1 self-certification was signed and dated before the quarter ended by either the manager and/or second-line manager.
- 2 self-certifications were not signed by the next-level manager.
- 29 self-certifications were not located and provided for review.

Management Action: IRS management has taken action to reduce errors related to the quarterly certification. The IRS Human Capital Officer approved a project improvement plan for Section 1204 electronic certification. Because of the historical errors identified in the quarterly certification paper process that include quarterly certifications that are: lost; signed on the wrong date; missing the signature of the second-level manager; and reflecting the wrong quarter as identified from the drop-down menu, this project will migrate the paper process to an electronic certification. The IRS believes that the electronic certification will mitigate all of these errors and provide controls for the program manager and executives to determine the level of compliance with this process in their respective organization. The electronic certification process will be used by Section 1204 managers to certify that they do not:

- Use ROTERs in their annual appraisals.
- Impose or suggest ROTER-based production quotas or goals.

The consolidated quarterly self-certification process was effective at identifying Section 1204(a) self-reported ROTER violations and Section 1204(b) retention standard occurrences of noncompliance

Through the quarterly self-certification process, managers are reminded of their responsibilities under RRA 98 § 1204 to not evaluate their employees on ROTERs or production quotas or goals. The quarterly self-certification process helps to ensure that managers are aware of the IRS's commitment to administer the tax laws fairly and to protect the rights of taxpayers. In our

[18] IRM 1.5.3.2.2(2) (May 19, 2017).

review of the self-certifications obtained from the managers in our sample, there were no self-reported ROTER violations and 1204(b) retention standard occurrences of noncompliance.

In addition, as part of our review of the self-certification process, we also requested the quarterly consolidated certifications for each business operating division for Fiscal Year 2018 and determined that the self-reported information in the previous bullets was also included in the IRS consolidated summary of violations and occurrences of noncompliance, shown in Figure 3.

Figure 3: Fiscal Year 2018 Consolidated Summary of Violations and Occurrences of Noncompliance

IRS Function	Section 1204(a) ROTER Violations	Section 1204(b) Retention Standard
Office of the Commissioner	0	0
Appeals	0	0
Criminal Investigation	0	5
Large Business and International Division	0	8
National Taxpayer Advocate	0	0
Small Business/Self-Employed Division	0	30
Tax Exempt and Government Entities Division	0	4
Wage and Investment Division	0	14
Totals	**0**	**61**

Source: TIGTA analysis of the quarterly consolidated certifications for each business operating division for Fiscal Year 2018.

These violations were self-reported and corrective actions were completed indicating that the quarterly self-certification process is effective. For example, in the third quarter of Fiscal Year 2018, Section 1204 coordinators reported 13 Section 1204(b) instances of noncompliance. For the fourth quarter, Section 1204 coordinators reported 10 Section 1204(b) instances of noncompliance. The 23 instances of Section 1204(b) noncompliance resulted from managers either not obtaining receipt and acknowledgement of the Retention Standard from employee, or not signing acknowledgement for the Retention Standard. The corrective action for the instances of noncompliance included obtaining: 1) employees signatures for receipt and acknowledgement of the Retention Standard, or 2) managers' signatures for acknowledgement of the Retention Standard.

Recommendations

Recommendation 1: The Chief, Criminal Investigation; the Commissioner, Large Business and International Division; the Commissioner, Small Business/Self-Employed Division; the Commissioner, Tax Exempt and Government Entities Division; the Commissioner, Wage and Investment Division; and the National Taxpayer Advocate should ensure that the RRA 98 § 1204(b) instances of noncompliance are discussed with the responsible managers to ensure that they understand the retention standard documentation.

> **Management's Response:** The IRS agreed with this recommendation, and the IRS Human Capital Officer confirmed with the named business units that the IRS policy on Section 1204(b) noncompliance regarding the retention standard requirements identified in this report were discussed with the responsible managers at the time the managers made corrections to each document.

Recommendation 2: The Commissioner, Small Business/Self Employed Division; the Commissioner, Tax Exempt and Government Entities Division; and the National Taxpayer Advocate should ensure that responsible managers understand Code of Federal Regulations § 430.206 policy violations.

> **Management's Response:** The IRS disagreed with this recommendation. In its response, the IRS stated that IRM 1.5.3.4.6(8) provides that timeliness of receipt/acknowledgement (sharing) and evaluation (rating) for the performance standard is not a Section 1204 requirement. This means the retention standard acknowledgement and evaluation documents signed 30 days after the beginning of the performance period and 30 days after the end of the performance period are not counted as Section 1204(b) instances of noncompliance for self-certification reporting.

> **Office of Audit Comment:** A violation of 5 Code of Federal Regulations § 430.206 impedes the IRS's ability to comply with Section 1204(b) and Treasury Regulation Section 801. The congressional intent was to provide assurance that employee performance standards are focused on providing quality service to taxpayers instead of achieving enforcement results. In order for the IRS to evaluate its employees in the proper manner, the employee needs to know what he or she is being evaluated on, and the manager needs to provide documentation to the employee regarding the standards for the appraisal.

Recommendation 3: The Chief, Criminal Investigation; the Commissioner, Large Business and International Division; the Commissioner, Small Business and Self-Employed Division; the Commissioner, Wage and Investment Division; and the National Taxpayer Advocate should ensure that responsible managers understand the quarterly certification requirements.

> **Management's Response:** The IRS agreed with this recommendation, and the IRS Human Capital Officer confirmed with the named business units that the Section 1204(c)

instances of noncompliance regarding the quarterly self-certification identified in this report were discussed with the responsible managers at the time the managers corrected the documents.

With Few Exceptions, the IRS Generally Ensures That Employees Complete Mandatory Training and That Managers Use HR Connect to Designate Themselves and Their Employees As Section 1204 Employees

Beginning January 2013, all Section 1204 managers were required to use a new HR Connect indicator to designate their employees and themselves as Section 1204 employees. Managers were to validate the accuracy of this indicator at the end of each quarter. The HR Connect indicator was set up to:

- Manage the Section 1204 population more efficiently.
- Reduce managerial burden in the Section 1204 self-certification process.
- Improve the accuracy of reporting, which also helps support the annual TIGTA audit and independent reviews completed by the IRS.[19]

In addition, the IRS began using the HR Connect Section 1204 indicator to identify employees who were required to complete *The RRA 98 Mandatory Section 1204 Briefing*. However, we determined that some managers did not properly designate themselves as Section 1204 employees within HR Connect, which affected the accuracy of the Fiscal Year 2018 Section 1204 employee and manager list created by the IRS as well as the assignment of the mandatory ROTERs training.

The Section 1204 employee and manager list did not capture all Section 1204 management personnel

The Section 1204 employee and manager list is used to identify managers who are required to comply with RRA 98 § 1204. However, we identified a few Section 1204 managers missing from the Fiscal Year 2018 employee and manager list that the IRS provided to us. When we first compared the Fiscal Year 2018 list to the Fiscal Year 2017 list obtained during last year's review, we initially identified that 451 managers were missing. We used the Treasury Integrated Management Information System table from the Data Center Warehouse to determine if all of the 451 managers were still working for the IRS. We found that 86 managers still worked for the IRS.

[19] In Fiscal Year 2018, ownership of the Section 1204 program was transferred from the Office of the Chief Financial Officer to the IRS Human Capital Officer.

We used the IRS's Discovery Directory to determine whether the 86 managers may have been in a Section 1204 manager position during Fiscal Year 2018. In so doing, we determined that there were still 58 potential Section 1204 managers. When we provided this information to IRS management, they determined that 44 of these managers were either no longer Section 1204 managers or no longer worked for the IRS. As a result, 14 Section 1204 managers did not properly designate themselves within HR Connect as Section 1204 managers as of the end of Fiscal Year 2018.

After discussions with IRS management during our Fiscal Year 2015 review, we were informed that the IRS sends quarterly reminders to managers to properly designate themselves within HR Connect.[20] This is also part of the quarterly self-certification process in which the Section 1204 program managers issue reminders to perfect the Section 1204 indicator on HR Connect. While improvements have been made to the identification of Section 1204 managers, it is important that the IRS continue to ensure that managers properly designate themselves within HR Connect. Managers who are not properly classified are at risk of not completing required mandatory training or not having the potential to be selected for the annual TIGTA audit and independent reviews done by the IRS.

Nearly all employees completed the mandatory Section 1204 training in Fiscal Year 2018

The new Section 1204 training became available to employees in the IRS's Enterprise Learning Management System in July 2018, and all Section 1204 personnel are required to complete the course annually. As part of our testing, we requested a report containing the training status of employees who were assigned the Section 1204 mandatory training to determine whether it was completed by the end of Fiscal Year 2018. We found that 99 percent of employees completed the training in July, August, or September 2018. However, there were 99 Section 1204 employees and managers who completed the training late, and there was no completion date for 203 Section 1204 employees and managers, suggesting that the training was not completed timely.[21]

We also reconciled the training status report against the Section 1204 manager and employee list provided to us to identify personnel who may not have been assigned the required training. We identified 597 Section 1204 employees and managers who did not appear on the aforementioned training report. We determined that only 164 of the 597 Section 1204 employees and managers were required to complete the training. We determined that 466 of 31,949 Section 1204

[20] TIGTA, Ref. No. 2015-30-083, *Fiscal Year 2015 Statutory Audit of Compliance With Legal Guidelines Restricting the Use of Records of Tax Enforcement Results* (Sept. 2015).
[21] Training is required to be completed by September 30, 2018, to be timely and the training list we used to identify these 203 Section 1204 employees and managers was as of November 18, 2018.

designated employees and managers did not complete the mandatory Section 1204 training during Fiscal Year 2018.[22] This reflects a 98.5 percent completion rate.

Recommendation

Recommendation 4: The Deputy Commissioner for Operations Support should ensure that the managers identified in this report are notified to properly designate themselves as Section 1204 personnel within HR Connect and ensure that the mandatory Section 1204 training is assigned and completed within 90 calendar days.

> ***Management's Response:*** The IRS agreed with this recommendation. In its response, the IRS stated that the Section 1204 Communication Plan includes outreach messages to all managers to ensure that managers with Section 1204 responsibilities are aware of the requirement to update their HR Connect profile with the Section 1204 indicator.

Most Employees Have a Good Understanding of Record of Tax Enforcement Results Statistics

We interviewed a random sample of 16 Section 1204 managers and a random sample of 30 Section 1204 employees from the stratified sample of 151 managers and employees to determine if they had: 1) a clear understanding of a ROTER statistic and 2) any knowledge of the Fair and Equitable Treatment of Taxpayers Retention Standard as it relates to Section 1204.[23] Overall, the managers and employees we interviewed have a good understanding of ROTERs. Specifically, we determined that:

- All 16 stated that they had a clear understanding of ROTERs and were able to provide two accurate examples of ROTER statistics.
- Of the 30 employees, 28 stated that they had a clear understanding of ROTERs; however, three of the 28 employees could not provide an example of a ROTER statistic while the other two could only provide one example. The two employees who did not have a clear understanding of ROTERs also could not provide an example of a ROTER statistic.

[22] This represents the number of Section 1204 employees who failed to complete the mandatory Section 1204 training during Fiscal Year 2018. It was calculated as the sum of the 164 Section 1204 employees and managers never assigned training (597 - 433 (excused)), 99 Section 1204 employees and managers who were assigned the mandatory training and completed it late and 203 Section 1204 employees and managers who were assigned the training and failed to complete it. Because this percentage was less than 2 percent, we did not conduct further work to identify why they did not complete the training timely.

[23] We interviewed 30 Section 1204 employees and 16 Section 1204 managers.

- All 16 managers stated that they understood the retention standard and were able to accurately describe what it meant to be evaluated using the retention standard.
- Most of the employees stated that they understood the retention standard; however, seven could not accurately define the retention standard or what it meant to be evaluated on the retention standard. Three of the 30 employees stated that their managers did not discuss the retention standard with them.
- Most of the managers stated that they have discussed the retention standard with their employees. Specifically, 11 managers told their employees to treat the taxpayer fairly or emphasized taxpayer rights, and the other five managers said they used the IRM or IRM examples to explain the retention standard.

If a manager misunderstands a ROTER statistic, it limits the manager's ability to fully evaluate employees or to set meaningful expectations. A clear understanding of ROTERs is critical for managers to ensure that they are not violating RRA 98 § 1204(a), are able to accurately document their own compliance through the self-certification process, and are able to assist their employees in understanding the requirements of the law.

The IRM states that the retention standard is used to make certain that all employees make a good-faith effort in the fair and equitable treatment of taxpayers. The manager must coach an employee on how to prevent an occurrence of unacceptable customer treatment and the importance of adhering to the Fair and Equitable Treatment of Taxpayers Retention Standard.[24]

Further, the IRM states that an employee's receipt and acknowledgement of the Fair and Equitable Treatment of Taxpayers Retention Standard means that the manager has discussed the retention standard, including the:

- Behaviors that allow the employee to meet the retention standard.
- Circumstances that may result in a determination that the employee does not meet the retention standard.
- Potential impact of not meeting the retention standard.[25]

Additionally, the IRS provided a mandatory self-study training briefing in July 2018 that was to be taken by all designated Section 1204 employees and managers through the Enterprise Learning Management System. The training took approximately 30 minutes to complete and:

- Defined a Section 1204 employee or manager.
- Identified key components of Section 1204.

[24] IRM 1.5.3.3.2(1) (Feb. 5, 2015).
[25] IRM 1.5.3.3.2(2) (Feb. 5, 2015).

- Provided instructions and examples on designating Section 1204 employees and managers within HR Connect as part of the Section 1204 quarterly certification process.
- Discussed tax enforcement results, ROTERs, imposing/suggesting production quotas or goals, quantity measures, quality measures, receipt and acknowledgement of the Fair and Equitable Treatment of Taxpayers Retention Standard, and evaluating retention standard performance.
- Described the process for management's quarterly self-certification of compliance with Section 1204, including processes involving Section 1204 new hires and new Section 1204 managers.
- Explained that annual reviews are conducted by the IRS and TIGTA to assess Section 1204 compliance and provided a list of Section 1204 documents that are reviewed.

We reviewed the mandatory Section 1204 briefing assigned to Section 1204 managers and employees in July 2018 and noted that key information is available only to employees and managers as links to the pertinent IRM sections within the training module and not on the slides themselves. For example, the following items are available via these links:

- Specific examples of tax enforcement results, *e.g.*, dollars collected, number of prosecutions, liens filed, or prohibited data, statistics, compilations of information, or other numerical or quantitative measures, which may be considered ROTER violations if used improperly.
- Reference that managers cannot use a tax enforcement result from one case to evaluate an employee or suggest production goals or quotas, *e.g.*, praising an employee for submitting a fraud referral.
- Specific examples of quantity and quality measures that are permissible within the scope of a performance appraisal, *e.g.*, cases started, cases closed, cycle time, over-age cases.

If managers fail to properly share the retention standard information with their employees, it can affect their employees' interactions with taxpayers as well as their understanding of the importance of safeguarding taxpayer rights. We believe that managers and employees would benefit greatly from an increased knowledge of ROTERs. We also believe that expanding the training to include more information about the nature of ROTERs would be beneficial to IRS employees. While almost all Section 1204 employees and managers took the mandatory training, continued emphasis would allow managers and employees to be more knowledgeable on RRA 98 § 1204.

Appendix I

Detailed Objective, Scope, and Methodology

The overall objective of this review was to determine whether the IRS complied with restrictions on the use of enforcement statistics to evaluate employees as set forth in RRA 98 § 1204.[1] To accomplish our objective, we:

I. Determined if the IRS complied with the provisions of RRA 98 §§ 1204(a) and (b) when evaluating Section 1204 employees' performance.

A. Selected a stratified sample of Section 1204 employees and managers for review.

B. Obtained a list of Section 1204 employees and managers as of October 1, 2018. We sorted the employees and managers into the seven IRS operating divisions: Appeals, Criminal Investigation, Large Business and International Division, National Taxpayer Advocate, Small Business/Self Employed Division, Tax Exempt and Government Entities Division, and Wage and Investment Division. We created five strata by combining Appeals, National Taxpayer Advocate, and the Tax Exempt Government Entities Division into one strata while Criminal Investigation, Large Business and International Division, Small Business/Self Employed Division, and Wage and Investment Division are Strata 2 through 5. We used stratified sampling and randomly selected samples from each of the five strata.

C. For each employee and manager selected for review, electronically obtained the evaluation documents prepared by the manager, *i.e.*, performance evaluation documents: midyear and annual performance reviews, and award documents, and discussed with the selected employees.

1. Created a check sheet with a list of documents to request from the Section 1204 managers for each employee who was selected in Step I.B. We requested that each manager provided the appropriate evaluation documents from HR Connect[2] and/or scanned documents from the Employee Personal Folder, according to the check sheet.

2. Obtained and reviewed the employee performance evaluation documentation and workload reviews to determine whether ROTERs and/or production goals or quotas were inappropriately used in the evaluation process and whether employees were evaluated appropriately on the fair and equitable treatment of taxpayers. We verified that the Receipt of Critical Job Elements and Retention

[1] Pub. L. No. 105-206, 112 Stat. 685.
[2] See Appendix V for a glossary of terms.

Standard were signed within the first 30 days of the employees' rating period. We documented the results using an audit check sheet to identify the employees reviewed, documents examined, and any exceptions identified.

D. Reviewed the training records for the employees/managers selected for review who had ROTERs in their evaluations or self-assessments. We obtained evidence that the mandatory yearly training was completed.

E. Discussed any exceptions identified with the Human Capital Officer's Section 1204 program manager and the appropriate operating division/function program coordinator for agreement and explored the potential root cause for the violation(s).

F. Contacted TIGTA's Office of Investigations to determine if there were any complaints or investigations filed during Fiscal Year 2018 related to ROTERS.

G. Verified that Section 1204 managers are correctly classified by matching the list of Section 1204 managers obtained in Step I.B. to the list of Section 1204 managers obtained during our Fiscal Year 2017 review to identify any managerial changes between the two years. For any managers who were removed from the current list, we used the Discovery Directory to determine their employment designation.

II. Determined if the sampled managers complied with RRA 98 § 1204(c) by certifying by letter whether or not ROTERs were used in a manner prohibited by subsection (a).

A. Electronically obtained the self-certifications for all four quarters during Fiscal Year 2018 from the managers selected for review.

1. Reviewed the self-certification documents submitted by the managers to establish that they were completed timely and signed. We summarized the results.

2. Determined if any ROTERs and/or production goals and quotas were reported by the managers on their self-certifications. We summarized the results.

III. Determined whether the mandatory RRA 98 § 1204 training for managers and employees adequately addresses the use of ROTERs and/or the retention standards, all Section 1204 managers and employees completed the training for FY 2018, and the employees have a general understanding of these requirements.

A. Interviewed IRS management to obtain documentation for the Section 1204 training provided to employees and to obtain their feedback on whether perceptions about the use of (or emphasis on) enforcement statistics or ROTERs have changed.

B. Reviewed documentation to determine how and when the Section 1204 training was implemented.

C. Reviewed all Section 1204 training materials for the tone of the message delivered.

D. Requested a list of all Section 1204 employees and managers who completed the Section 1204 training.

E. Interviewed 16 randomly sampled managers and 30 randomly sampled employees from the stratified samples in Step I.B. and obtained their feedback on whether perceptions about the use of (or emphasis on) enforcement statistics or ROTERs have changed, as well as their knowledge of the retention standard. We interviewed employees via teleconference.

Data validation methodology

We obtained the Fiscal Year 2018 fourth quarter Section 1204 employee and manager list from the IRS Human Capital Officer. We used this list to develop our stratified sampling plan. Our sampling plan was developed in consultation with our statistician. To determine the reliability of the data, we reviewed the data for duplicates and identified any missing information. We then compared the data to the Discovery Directory. These tests determined that the data were sufficiently reliable and could be used to meet the objective of this audit.

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 guidelines and rules related to using ROTERs in a way as to improperly influence the handling of taxpayer cases and retention standard guidance. We evaluated these controls by reviewing stratified samples of performance documents, including available midyear and annual performance reviews, employee self-assessments, workload reviews, case reviews, award documentation, and signed quarterly self-certifications, to determine whether the IRS complied with restrictions on the use of enforcement statistics when evaluating its employees.

Appendix II

Major Contributors to This Report

Matthew A. Weir, Assistant Inspector General for Audit (Compliance and Enforcement Operations)
Christina M. Dreyer, Director
Timothy F. Greiner, Audit Manager
Jesse Fenton, Lead Auditor

Appendix III

Report Distribution List

Chief, Appeals
Chief, Criminal Investigation
Chief Financial Officer
National Taxpayer Advocate
Commissioner, Large Business and International Division
Commissioner, Small Business/Self-Employed Division
Commissioner, Tax Exempt and Government Entities Division
Commissioner, Wage and Investment Division
Director, Enterprise Audit Management

Appendix IV

Recent Audit Reports Related to This Statutory Review[1]

TIGTA, Ref No. 2018-30-055, *Fiscal Year 2018 Statutory Audit of Compliance With Legal Guidelines Restricting the Use of Records of Tax Enforcements Results.* (Aug. 2018).

TIGTA, Ref. No. 2017-30-071, *Fiscal Year 2017 Statutory Audit of Compliance With Legal Guidelines Restricting the Use of Records of Tax Enforcement Results* (Sept. 2017).

TIGTA, Ref. No. 2016-30-088, *Fiscal Year 2016 Statutory Audit of Compliance With Legal Guidelines Restricting the Use of Records of Tax Enforcement Results* (Sept. 2016).

TIGTA, Ref. No. 2015-30-083, *Fiscal Year 2015 Statutory Audit of Compliance With Legal Guidelines Restricting the Use of Records of Tax Enforcement Results* (Sept. 2015).

TIGTA, Ref. No. 2014-30-055, *Fiscal Year 2014 Statutory Audit of Compliance With Legal Guidelines Restricting the Use of Records of Tax Enforcement Results* (Sept. 2014).

TIGTA, Ref. No. 2013-30-073, *Fiscal Year 2013 Statutory Audit of Compliance With Legal Guidelines Restricting the Use of Records of Tax Enforcement Results* (Aug. 2013).

[1] This list provides the six most recent reports issued by TIGTA.

Appendix V

Glossary of Terms

Term	Definition
Campus	The data processing arm of the IRS. The campuses process paper and electronic submissions, correct errors, and forward data to the Computing Centers for analysis and posting to taxpayer accounts.
Discovery Directory	A computer system available to IRS personnel that provides information on IRS employees including their name, job title, job location, and management level.
Employee Performance File	A system consisting of all performance ratings and other performance records maintained on an employee.
Enterprise Learning Management System	An IRS automated training system that allows the employee and manager to be directly engaged in planning, communicating, and coordinating training and development activities online.
Fiscal Year	Any yearly accounting period, regardless of its relationship to a calendar year. The Federal Government's fiscal year begins on October 1 and ends on September 30.
HR Connect	A human resource system owned and operated by the U.S. Department of the Treasury.
Internal Revenue Manual	The primary official source of instructions to staff related to the organization, administration, and operation of the IRS.

Appendix VI

Management's Response to the Draft Report

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

AUG 1 3 2019

MEMORANDUM FOR Michael E. McKenney
Deputy Assistant Inspector General for Audit

FROM: Robin D. Bailey, Jr. for /s/
IRS Human Capital Officer

SUBJECT: Draft Audit Report - Fiscal Year 2019 Statutory Audit of Compliance with Legal Guidelines Restricting the Use of Tax Enforcement Results (Audit# 201930014)

Thank you for the opportunity to review the draft report entitled, Fiscal Year 2019 Statutory Audit of Compliance with Legal Guidelines Restricting the Use of Tax Enforcement Results (Audit# 201930014). We appreciate your acknowledgment that the IRS ensures that its managers generally do not use Records of Tax Enforcement Results (ROTERs) and/or production goals or quotas to evaluate employees. We also appreciate your acknowledgement of IRS actions to reduce or eliminate Section 1204(b) errors through the Integrated Talent Management system and Section 1204(c) errors through Electronic Certification.

In general, we agree with the report language and the audit findings pertaining to Section 1204 violations, instances of noncompliance, and Internal Revenue Manual (IRM) policy violations, which all have been discussed with the responsible managers and employees to reinforce responsibilities related to the law and IRS policies.

We agree with most of the report recommendations but disagree with some of the Section 1204(b) policy violations cited in the audit report. Based on IRM policy guidance, we do not agree with the identified Section 1204(b) instances of non-compliance cited in the audit report as 5 CFR §430.206 policy violations. The requirement to share the performance plan at the beginning of the performance period is found in IRM 6.430, Performance Management. This policy is reinforced in guidance provided in Leaders' Alerts articles, training, and job aids. According to IRM 1.5.3.4.6(8), Counting and Addressing Non-Compliance with the Retention Standard, timeliness of acknowledgement (sharing) and evaluation (rating) for the performance standard is not a Section 1204 requirement. This means that retention standard acknowledgement and evaluation documents signed 30 days after the beginning of the performance period and 30 days after the end of the performance period are not counted as Section 1204(b) instances of non-compliance for self-certification reporting.

Attached is a detailed response outlining the corrective actions that the Human Capital Office will take to address your recommendations. If you have any questions, please contact me at 202-317-7600, or a member of your staff may contact Pablo Melendez, director, Plans and Operations, at 202-317-4397.

Attachment

Attachment

RECOMMENDATION 1

The Chief, Criminal Investigation; the Commissioner, Large Business and International Division; the Commissioner, Small Business/Self-Employed Division; the Commissioner, Tax Exempt and Government Entities Division; the Commissioner, Wage and Investment Division; and the National Taxpayer Advocate should ensure that the RRA 98 §1204(b) instances of noncompliance are discussed with the responsible managers to ensure that they understand the retention standard documentation.

CORRECTIVE ACTION

The IRS agrees with this recommendation. The IRS HCO confirmed with the named business units that the IRS policy on 1204(b) noncompliance regarding the retention standard requirements identified in this report were discussed with the responsible managers at the time the managers made corrections to each document.

IMPLEMENTATION DATE

Completed July 31, 2019. All documents were corrected.

RESPONSIBLE OFFICIAL

IRS Human Capital Officer

CORRECTIVE ACTION MONITORING PLAN
N/A

RECOMMENDATION 2

The Commissioner, Small Business/Self Employed Division; the Commissioner, Tax Exempt and Government Entities Division; and the National Taxpayer Advocate, should ensure that responsible managers understand Code of Federal Regulations §430.206 policy violations.

CORRECTIVE ACTION

None. The IRS disagrees with this recommendation. According to IRM 1.5.3.4.6(8), timeliness of receipt/acknowledgement (sharing) and evaluation (rating) for the performance standard is not a Section 1204 requirement. This means that retention standard acknowledgement and evaluation documents signed 30 days after the beginning of the performance period and 30 days after the end of the performance period are not counted as Section 1204(b) instances of non-compliance for self-certification reporting.

IMPLEMENTATION DATE

N/A

RESPONSIBLE OFFICIAL

IRS Human Capital Officer

CORRECTIVE ACTION MONITORING PLAN
N/A

RECOMMENDATION 3

The Chief, Criminal Investigation; the Commissioner, Large Business and International Division; the Commissioner, Small Business and Self-Employed Division; the Commissioner, Wage and Investment Division; and the National Taxpayer Advocate, should ensure that responsible managers understand the quarterly certification requirements.

CORRECTIVE ACTION

The IRS agrees with this recommendation. The IRS HCO confirmed with the named business units that the 1204(c) instances of noncompliance regarding the quarterly self-certification identified in this report were discussed with the responsible managers at the time the managers corrected the documents.

IMPLEMENTATION DATE

Completed July 31, 2019. All documents were corrected.

RESPONSIBLE OFFICIAL

IRS Human Capital Officer

CORRECTIVE ACTION MONITORING PLAN
N/A

RECOMMENDATION 4

The Deputy Commissioner for Operations Support should ensure that the managers identified in this report are notified to properly designate themselves as Section 1204 personnel within HR Connect and ensure that the mandatory Section 1204 training is assigned and completed within 90 calendar days.

CORRECTIVE ACTION

The IRS agrees with this recommendation. The Section 1204 Communication Plan includes outreach messages to all managers to ensure that managers with Section 1204 responsibilities are aware of the requirement to update their HR Connect profile with the Section 1204 indicator.

IMPLEMENTATION DATE

August 15, 2019

RESPONSIBLE OFFICIAL

IRS Human Capital Officer

CORRECTIVE ACTION MONITORING PLAN

The IRS will provide regular outreach messages to all managers through the Leaders Alert, to ensure that managers with Section 1204 responsibilities are aware of the requirement to update their HR Connect profile with the Section 1204 indicator.