

# TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION



## **Fiscal Year 2021 Statutory Audit of Compliance With Notifying Taxpayers of Their Rights When Requested to Extend the Assessment Statute**

August 23, 2021

Report Number: 2021-30-062

**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.**

# HIGHLIGHTS: Fiscal Year 2021 Statutory Audit of Compliance With Notifying Taxpayers of Their Rights When Requested to Extend the Assessment Statute

Final Audit Report issued on August 23, 2021

Report Number 2021-30-062

## Why TIGTA Did This Audit

TIGTA is required by law to annually determine whether the IRS complied with Internal Revenue Code § 6501(c)(4)(B), which requires that the IRS provide notice to taxpayers of their rights to decline requests to extend the assessment statute of limitations or to request that any extension be limited to a specific period of time or specific issues.

## Impact on Taxpayers

The IRS is required by law to notify taxpayers of their rights when requesting an extension of the statute of limitations for assessing additional taxes and penalties. Taxpayers might be adversely affected if the IRS does not follow the requirements to notify both the taxpayers and their representatives of the taxpayers' rights related to assessment statute extensions.

## What TIGTA Found

TIGTA's review of a statistical sample of 40 closed taxpayer audit files with assessment statute extensions found that the IRS was substantially compliant with Internal Revenue Code § 6501(c)(4)(B). However, [REDACTED]

[REDACTED] Additionally, nine of the taxpayer audit files did not contain documentation to support that employees followed the IRS's internal procedures for further explaining the taxpayers' rights to the taxpayers.

TIGTA's review also found instances in which the audit files did not contain documentation to support that the IRS complied with procedures requiring notification of a taxpayer's representative when an authorization for third-party representation exists. Specifically, TIGTA reviewed 33 taxpayer audit files that contained an authorization for a third party to represent the taxpayer before the IRS. Seven of these taxpayer audit files did not contain documentation to support that the taxpayers' representatives were provided with the required notifications.

According to IRS management, they have developed additional training modules and workshops to improve awareness of internal requirements related to notification and documentation. TIGTA had planned to evaluate the effectiveness of the additional training for this report, but the training modules were not offered until January and February 2020. Since the training occurred halfway through the fiscal year under review, TIGTA decided that a fair assessment of the additional training efforts should cover the entire fiscal year under review and will be assessed during the Fiscal Year 2022 review.

## What TIGTA Recommended

TIGTA made no recommendations in this report. IRS officials were provided with an opportunity to review the draft report but did not provide any report comments.



TREASURY INSPECTOR GENERAL  
FOR TAX ADMINISTRATION

**U.S. DEPARTMENT OF THE TREASURY**

**WASHINGTON, D.C. 20220**

August 23, 2021

**MEMORANDUM FOR:** COMMISSIONER OF INTERNAL REVENUE

**FROM:** Michael E. McKenney  
Deputy Inspector General for Audit

**SUBJECT:** Final Audit Report – Fiscal Year 2021 Statutory Audit of Compliance  
With Notifying Taxpayers of Their Rights When Requested to Extend the  
Assessment Statute (Audit # 202130006)

This report presents the results of our review to determine whether the Internal Revenue Service (IRS) complied with Internal Revenue Code § 6501(c)(4)(B), which requires that the IRS provide notice to taxpayers of their rights to decline to extend the assessment statute of limitations or to request that any extension be limited to a specific period of time or specific issues. The Treasury Inspector General for Tax Administration is statutorily required to provide information annually regarding the IRS's compliance with this provision. This review is part of our Fiscal Year 2021 Annual Audit Plan and addresses the major management and performance challenge of *Protecting Taxpayer Rights*.

Although we made no recommendations in this report, we provided IRS officials an opportunity to review the draft report. IRS management did not provide us with any report comments.

Copies of this report are also being sent to the IRS managers affected by the report information. If you have any questions, please contact me or Matthew A. Weir, Assistant Inspector General for Audit (Compliance and Enforcement Operations).

# Table of Contents

<b><u>Background</u></b> .....	Page 1
<b><u>Results of Review</u></b> .....	Page 4
<u>The Internal Revenue Service Was Substantially Compliant With     Legal Requirements Related to Requests to Extend the     Assessment Statute</u> .....	Page 4
<u>Internal Requirements for Notifying Taxpayers and Their     Representatives of Taxpayers' Rights Were Not Always Followed</u> .....	Page 4
<b>Appendices</b>	
<u>Appendix I – Detailed Objective, Scope, and Methodology</u> .....	Page 8
<u>Appendix II – Sampling and Audit File Review Methodology</u> .....	Page 10
<u>Appendix III – Audit Review Results by Business Operating Division</u> .....	Page 13
<u>Appendix IV – Recent Audit Reports Related to This Statutory     Review</u> .....	Page.14
<u>Appendix V – Abbreviations</u> .....	Page.15

## Background

The Internal Revenue Service (IRS) is required by the IRS Restructuring and Reform Act of 1998 (RRA 98) and the Internal Revenue Code (I.R.C.) to notify taxpayers of their rights when requesting an extension of the statute of limitations for the assessment of additional taxes and penalties.<sup>1</sup> When the IRS audits a tax return and determines that there is an additional tax liability, the additional tax assessment must generally be processed within three years from the date the return was due or from the date on which the return was actually filed, whichever is later. This three-year assessment statute of limitations normally cannot be extended without the taxpayer's written consent.

**The IRS is required to notify taxpayers of their rights when requesting an extension of the statute of limitations for the assessment of additional taxes and penalties.**

To extend the assessment statute, the IRS generally requests that the taxpayer provide a signed consent form, such as Form 872, *Consent to Extend the Time to Assess Tax*; Form 872-B, *Consent to Extend the Time to Assess Miscellaneous Excise Taxes*; Form 872-P, *Consent to Extend the Time to Assess Tax Attributable to Partnership Items*; or Form SS-10, *Consent to Extend the Time to Assess Employment Taxes*.<sup>2</sup> IRS employees who often request assessment statute extensions include examiners in the various Examination functions of the business operating divisions and appeals officers in the Independent Office of Appeals. These consents extend the assessment statute of limitations to either a specific period of time or an unlimited, indefinite period on each occasion when the taxpayer is requested to provide such consent. The statute is usually extended for a period of time that both the IRS and the taxpayer agree is reasonable to complete the examination. The consent can also be negotiated to apply only to certain audit issues.

In passing this provision of RRA 98, Congress wanted to ensure that taxpayers are fully aware of their rights to refuse or limit the statute extension. Otherwise, taxpayers might believe that they are required to agree to an extension upon the request of the IRS.

A taxpayer might agree to extend the assessment statute of limitations for the following reasons:

- The taxpayer might want to pursue additional audit issues that are in the taxpayer's favor in offsetting a proposed tax assessment or that might allow for a tax refund.
- If the remaining time before the statute expires is too short, the IRS might have to prematurely stop the audit process and issue a notice of deficiency that limits the time for the normal appeals process before the taxpayer must file a petition with the U.S. Tax Court.

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<sup>1</sup> RRA 98 § 3461(b)(2)(B), Pub. L. No. 105-206, 112 Stat. 685 (codified as amended in scattered sections of 2 U.S.C., 5 U.S.C. app., 16 U.S.C., 19 U.S.C., 22 U.S.C., 23 U.S.C., 26 U.S.C., 31 U.S.C., 38 U.S.C., and 49 U.S.C.). I.R.C. § 6501(c)(4)(B).

<sup>2</sup> For partnerships, Form 872-P is used for fixed-date Tax Equity and Fiscal Responsibility Act partnership-level consent. This form should be signed by the Tax Matters Partner or authorized official. For employment taxes, Form SS-10 is used.

**Fiscal Year 2021 Statutory Audit of Compliance With Notifying Taxpayers  
of Their Rights When Requested to Extend the Assessment Statute**

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A taxpayer might decide to limit or refuse to extend the assessment statute of limitations because the taxpayer might not want to:

- Provide the IRS more time to consider additional audit issues.
- Allow the IRS the opportunity to further develop audit issues already under consideration after the normal statute period has expired.

RRA 98 § 3461(b)(2)(B) requires the IRS to "...notify the taxpayer of the taxpayer's right to refuse to extend the period of limitations, or to limit such extension to particular issues or to a particular period of time, on each occasion when the taxpayer is requested to provide such consent." To implement this statutory requirement, the IRS revised its procedures to direct IRS employees to provide the taxpayer with Letter 907, *Request to Extend Assessment Statute*, or Letter 967, *Letter Transmitting Consent Extending Period of Limitation*. Included with these letters should be the actual consent forms to be signed as well as Publication 1035, *Extending the Tax Assessment Period*, which includes a more detailed explanation of the taxpayer's rights and consequences of the taxpayer's choices.

Since December 2004, the consent forms include a prominent statement informing taxpayers of their rights regarding assessment statute extensions and provide information about Publication 1035. Figure 1 shows that the consent forms also include a statement for the taxpayer's representative to sign, confirming that they were notified of their rights regarding assessment statute extensions and that the taxpayers were made aware of the same rights.

**Figure 1: Excerpt of Form 872 – Taxpayer Rights**

**Your Rights as a Taxpayer**

You have the right to refuse to extend the period of limitations or limit this extension to a mutually agreed-upon issue(s) or mutually agreed-upon period of time. **Publication 1035, Extending the Tax Assessment Period**, provides a more detailed explanation of your rights and the consequences of the choices you may make. If you have not already received a Publication 1035, the publication can be obtained, free of charge, from the IRS official who requested that you sign this consent or from the IRS' web site at [www.irs.gov](http://www.irs.gov) or by calling toll free at 1-800-TAX-FORM (1-800-829-3676). Signing this consent will not deprive you of any appeal rights to which you would otherwise be entitled.

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**YOUR SIGNATURE HERE** → ..... (Date signed)  
.....  
(Type or Print Name)

I am aware that I have the right to refuse to sign this consent or to limit the extension to mutually agreed-upon issues and/or period of time as set forth in I.R.C. § 6501(c)(4)(B).

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**TAXPAYER'S REPRESENTATIVE SIGN HERE** → ..... (Date signed)  
(Only needed if signing on behalf of the taxpayer.) .....  
(Type or Print Name)

I am aware that I have the right to refuse to sign this consent or to limit the extension to mutually agreed-upon issues and/or period of time as set forth in I.R.C. § 6501(c)(4)(B). In addition, the taxpayer(s) has been made aware of these rights.

If this document is signed by a taxpayer's representative, the Form 2848, Power of Attorney and Declaration of Representative, or other power of attorney document must state that the acts authorized by the power of attorney include representation for the purposes of Subchapter C of Chapter 63 of the Internal Revenue Code in order to cover items in paragraph (4).

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*Source: IRS Form 872. Note: The wording on Form SS-10 is consistent with that shown on Form 872.*

In addition, the consent form includes a place for an IRS official's signature. Prior to signing the consent form, the IRS official (*e.g.*, manager) should review the audit file and consent form in

**Fiscal Year 2021 Statutory Audit of Compliance With Notifying Taxpayers  
of Their Rights When Requested to Extend the Assessment Statute**

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compliance with Internal Revenue Manual (IRM) 25.6.22.5.13(1), *Manager's Responsibilities When Signing Consents*.<sup>3</sup> Figure 2 shows the IRS Official's Signature section.

**Figure 2: Excerpt of Form 872 – IRS Official's Signature**

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**INTERNAL REVENUE SERVICE SIGNATURE AND TITLE**

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(IRS Official's Name - see instructions)

-----  
(IRS Official's Title - see instructions)

-----  
(IRS Official's Signature - see instructions)

-----  
(Date signed)

*Source: IRS Form 872. Note: The wording on Form SS-10 is consistent with that shown on Form 872.*

IRS procedures require that any notice or other written communication required to be given to a taxpayer also be given to the taxpayer's properly authorized representative (unless restricted by the taxpayer) along with a cover letter, Letter 937, *Transmittal for Power of Attorney*.<sup>4</sup> IRS employees are instructed to document in their audit file activity record whether the taxpayer was notified of their rights each time the IRS requested an assessment statute extension. In addition, IRS internal procedures require employees to provide copies of any correspondence with a taxpayer's representative to the taxpayer.

**The IRS's Coronavirus Disease 2019 (COVID-19) protocols temporarily updated some Assessment Statute Extension Date procedures**

Beginning in March 2020, the IRS implemented a series of temporary measures to protect employees and taxpayers, facilitate IRS operations, and provide taxpayer relief during COVID-19 shutdowns. The People First Initiative, followed by various guidance memoranda, included actions impacting assessment statute extensions:<sup>5</sup>

- New field, office, or correspondence exams were postponed except for those to protect the statute.
- Taxpayers were urged to cooperate in extending statutes.
- Examination Statutory Notices of Deficiency might be issued to protect the Government's interest in preserving statutes if the taxpayer does not consent to an extension.
- Digital signatures, faxed, and e-mailed documents were allowed.
- Mailing of physical audit files were halted, and special closing procedures were observed by Examination employees.

The temporary measures taken by the IRS to protect employees and taxpayers affected by COVID-19 expired July 15, 2020.

The Treasury Inspector General for Tax Administration (TIGTA) is required by RRA 98 to provide information annually regarding the IRS's compliance with I.R.C. § 6501(c)(4)(B). This report

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<sup>3</sup> IRM 25.6.22.5.13(1) (March 26, 2019).

<sup>4</sup> Conference and Practice Requirements, Statement of Procedural Rules, Treas. Reg. § 601.506 (2002).

<sup>5</sup> IR-2020-59 (March 25, 2020).

presents the results of our twenty-second annual review of the IRS's compliance with the assessment statute extension provisions of the law.

## **Results of Review**

The IRS was substantially compliant with the legal requirement to notify taxpayers of their rights when requesting an extension of the statute of limitations for assessing additional taxes and penalties. However, employees did not always follow internal IRS requirements to document that detailed letters were sent further explaining the taxpayers' rights to both the taxpayers and taxpayers' representatives.

### **The Internal Revenue Service Was Substantially Compliant With Legal Requirements Related to Requests to Extend the Assessment Statute**

The IRS is required to notify taxpayers of their rights when requesting an extension of the statute of limitations for assessing additional taxes and penalties. Tests of a statistically valid random sample of 40 closed taxpayer audit files in which the taxpayers were granted an extension of the statute expiration date showed that the IRS was compliant with legal requirements in all but [REDACTED].<sup>6</sup> Specifically, in [REDACTED] taxpayer audit files, the legal requirements were satisfied when the taxpayers or the taxpayers' representatives signed Forms 872 or SS-10 because the taxpayers' rights are clearly specified on the front of the forms.

[REDACTED]

Based on our sample results, from a universe of 4,385 taxpayer audit files with statute extensions, we project there were [REDACTED] that did not contain signed copies of the consent forms.<sup>7</sup>

### **Internal Requirements for Notifying Taxpayers and Their Representatives of Taxpayers' Rights Were Not Always Followed**

IRS procedures and publications go beyond statutory provisions by requiring letters, including notification of the taxpayer's rights, be provided to both the taxpayer and the taxpayer's authorized representative. The IRS's internal procedures require that notification be made to the taxpayer by sending Letter 907 or Letter 967, along with a properly completed consent form,

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<sup>6</sup> Our sample was selected using a 90 percent confidence level, an 8.4 percent expected error rate, and a  $\pm 6$  percent precision. I.R.C. § 6501(c)(4)(B). See Appendix II for more information pertaining to our sampling and audit file review methodology.

<sup>7</sup> [REDACTED]

which contains the notice of taxpayers' rights and Publication 1035, each time a request is made to the taxpayer to consent to extend the period for assessment.<sup>8</sup> IRS employees must also document in the audit file on Form 9984, *Examining Officer's Activity Record*, that the required notification was made. We found that taxpayer audit files did not always contain documentation to support that the IRS complied with these procedures. From our statistically valid sample of 40 taxpayer audit files, we identified:

- Nine (22.5 percent) audit files that did not contain documentation to indicate whether taxpayers were properly notified of their rights as required by the IRS's internal procedures, *i.e.*, Letter 907 or Letter 967 was not in the audit file and/or the activity log was not appropriately documented that the notification was made.<sup>9</sup> Based on our sample results from a universe of 4,385 taxpayer audit files with statute extensions, we project there were 1,076 taxpayer audit files that did not contain documentation to show that the taxpayers were properly notified of their rights when the assessment statutes were extended.<sup>10</sup>
- Seven (17.5 percent) audit files did not contain documentation to support that the taxpayers' representatives were provided with the required notifications, *i.e.*, Letter 937, Letter 907, or Letter 967 was not in the audit file and/or the activity log was not appropriately documented that the notification was made.<sup>11</sup> Based on our sample results from a universe of 4,385 taxpayer audit files with statute extensions, we project there were 898 taxpayer audit files that did not contain documentation to support that the taxpayers' representatives were provided with the required notifications.<sup>12</sup>

During our review, we considered the notification sufficient if any of the required documentation appeared to have been given to the taxpayers and a log entry to that effect was found in the related taxpayer audit files. The fact that we could not identify the required documentation in the audit file does not mean the taxpayers and their representatives were not notified of the taxpayers' rights. However, based upon the information available to us, we could not determine if the taxpayers or their representatives were properly notified of the taxpayers' rights in accordance with IRS internal procedures.

### **The IRS could not locate all audit files requested during this review**

The IRS's Files department was unable to provide all of the taxpayer audit files requested during our review. In December 2020, we ordered a total of 100 audit files to obtain our designated

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<sup>8</sup> IRM 25.6.22.3(2) (March 26, 2019) and IRM 25.6.22.3(5)(b) (March 26, 2019). IRS internal procedures do not require the taxpayer's representative notification package to include Publication 1035.

<sup>9</sup> The statistically valid sample had a 7.4 percent error rate and a 90 percent confidence interval between 12.37 percent (lower limit) and 36.7 percent (upper limit). The rate used for projecting to the population is 12.2 percent, which is further explained in Appendix II.

<sup>10</sup> The point estimate projection is based on a two-sided 90 percent confidence interval. We are 90 percent confident that the point estimate is between 542 and 1,609 taxpayer audit files that did not contain proper documentation. See Appendix II for additional details.

<sup>11</sup> The statistically valid sample had a 6.98 percent error rate and a 90 percent confidence interval between 9 percent (lower limit) and 31.95 percent (upper limit). The rate used for projecting to the population is 11.5 percent, which is further explained in Appendix II.

<sup>12</sup> The point estimate projection is based on a two-sided 90 percent confidence interval. We are 90 percent confident that the point estimate is between 395 and 1,401 taxpayer audit files that did not contain proper documentation. See Appendix II for additional details.

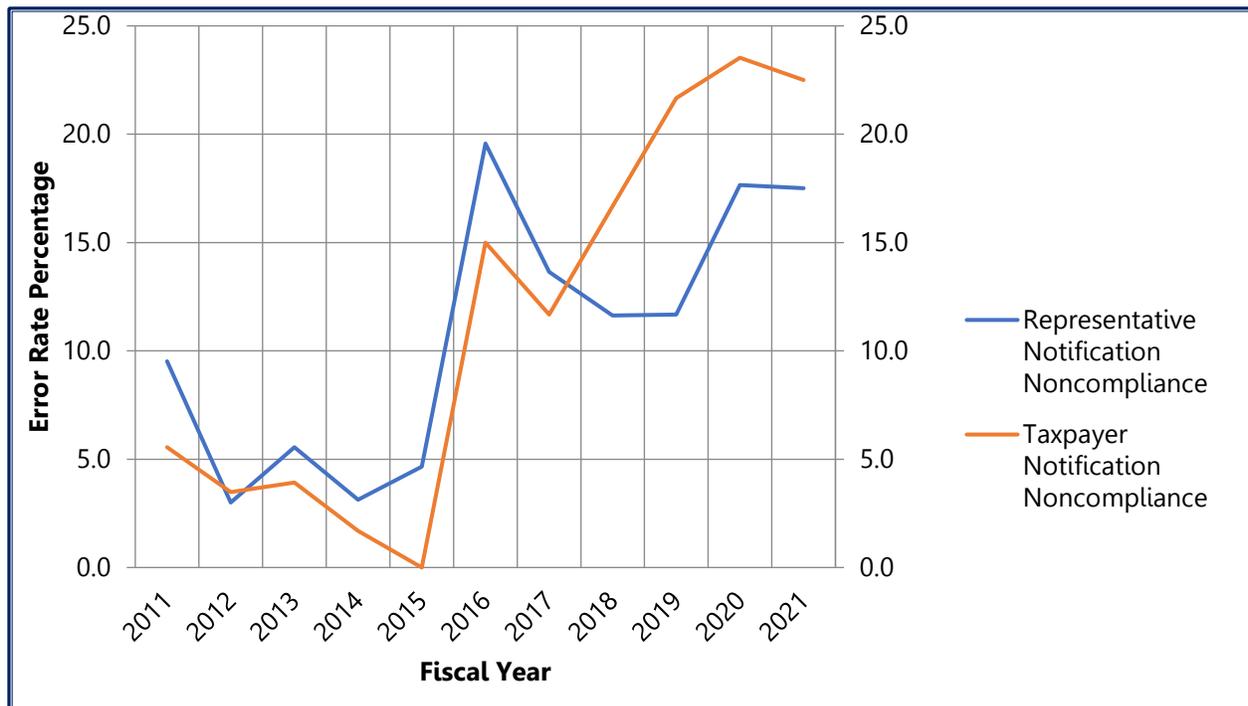
sample size. By February 1, 2021, we had received only seven audit files. We reached out to the IRS to determine why we had received so few cases. After researching the issue, the IRS reported that the Files department processes were slow due to limited resources related to the COVID-19 pandemic. IRS Service Centers and Federal Records Centers were gradually coming back online; however, staffing had not fully recovered.

We requested that the IRS research and provide assistance in obtaining the missing audit files. As a result, we obtained an additional 33 files to facilitate our review. We received a total 40 (40 percent) of the 100 taxpayer audit files requested during this review.<sup>13</sup>

**Error rates for noncompliance with IRS procedures for notifying taxpayers and their representatives have decreased from Fiscal Year (FY) 2020**

The IRS’s noncompliance with internal procedures decreased from FY 2020 with respect to both notifying taxpayers and notifying their representatives of the taxpayer’s rights when being requested to extend a statute. Specifically, for our FY 2021 review, we reviewed 40 audit files and found evidence that nine (22.5 percent) taxpayers were not properly notified and seven (17.5 percent) taxpayer representatives were not properly notified. This is a slight decrease in both taxpayers and their representatives not notified in accordance with the IRS’s internal procedures. Figure 3 shows the trend analysis on error rates.

**Figure 3: Trend Analysis of Error Rates From Prior TIGTA Reviews**



Source: TIGTA analysis of the historical error rate of exception audit files.

Although the IRM specifically directs IRS employees to provide taxpayers with the required letters and document the notification in the audit file activity record and also directs management or other authorized officials to verify the notification was properly documented,

<sup>13</sup> We did not receive all requested audit files for our sample size; however, the 40 audit files still represent a statistically valid sample with a 90 percent confidence level, an 8.4 percent expected error rate, and a ± 6 percent precision.

**Fiscal Year 2021 Statutory Audit of Compliance With Notifying Taxpayers  
of Their Rights When Requested to Extend the Assessment Statute**

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the IRS continues to have issues complying with its internal procedures. The IRS implemented the internal procedures to ensure that taxpayers are made aware of and are properly notified of their rights. Taxpayers may be adversely affected if the IRS does not follow requirements to notify both the taxpayers and their representatives of the taxpayers' rights related to statute extensions.

According to IRS management, they have developed additional training modules and workshops to improve awareness of internal requirements related to notification and documentation. We had planned to evaluate the effectiveness of the additional training for this report, but the training modules were not offered until January and February 2020. Given that the training occurred halfway through the fiscal year under review, we decided that a fair assessment of the additional training efforts should cover the entire fiscal year under review and will be assessed during our FY 2022 review.

## Appendix I

### Detailed Objective, Scope, and Methodology

The overall audit objective was to determine whether the IRS complied with I.R.C. § 6501(c)(4)(B), which requires that the IRS provide notice to taxpayers of their rights to decline to extend the assessment statute of limitations or to request that any extension be limited to a specific period of time or specific issues. To accomplish our objective, we:

- Determined whether taxpayers and their designated representatives were advised of their rights when the IRS requests an extension of the assessment statute.
- Reviewed the IRM, and other guidelines as applicable, to determine if there were any changes to existing procedures and practices for notifying taxpayers and their representatives when requesting to extend the assessment statute of limitations since our last audit.
- Selected a sample from our universe of combined Business Master File (BMF) and Individual Master File (IMF) audit files for which the IRS's records indicate an assessment statute was extended.<sup>1</sup>
- Estimated the potential number of taxpayers, and their designated representatives, that were not properly notified of their assessment statute extension rights.

### Performance of This Review

This review was performed with information obtained from the Independent Office of Appeals, the Large Business and International Division, the Small Business/Self-Employed Division, the Tax Exempt and Government Entities Division, and the Wage and Investment Division Headquarters in Washington, D.C., during the period November 2020 through June 2021. 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.

Major contributors to the report were Matthew A. Weir, Assistant Inspector General for Audit (Compliance and Enforcement Operations); Linna Hung, Director; Tim Greiner, Acting Director; Michele Jahn, Audit Manager; Kim McMenamin, Lead Auditor; and Ken Henderson, Senior Auditor.

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<sup>1</sup> The IMF is the IRS database that maintains transactions or records of individual tax accounts. The BMF is the IRS database that consists of Federal tax-related transactions and accounts for businesses. These include employment taxes, income taxes on business, and excise taxes.

## **Validity and Reliability of Data From Computer-Based Systems**

We evaluated the data by performing tests to assess the reliability of data obtained from the IRS's IMF and BMF systems. We evaluated the data by running queries on the population to ensure that the data met our criteria and no information was missing or incomplete. We determined that the data were sufficiently reliable for purposes of this report.

## **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 policies, procedures, and practices used by the Independent Office of Appeals, the Large Business and International Division, the Small Business/Self-Employed Division, the Tax Exempt and Government Entities Division, and the Wage and Investment Division as they relate to notifying taxpayers, and their designated third-party representatives, of their rights to decline to extend the assessment statute of limitations or request that any extension be limited to a specific period of time or specific issues. We evaluated these controls by reviewing applicable IRM sections and documentation, interviewing management from these business operating divisions, and reviewing a statistical sample of 40 taxpayer audit files.

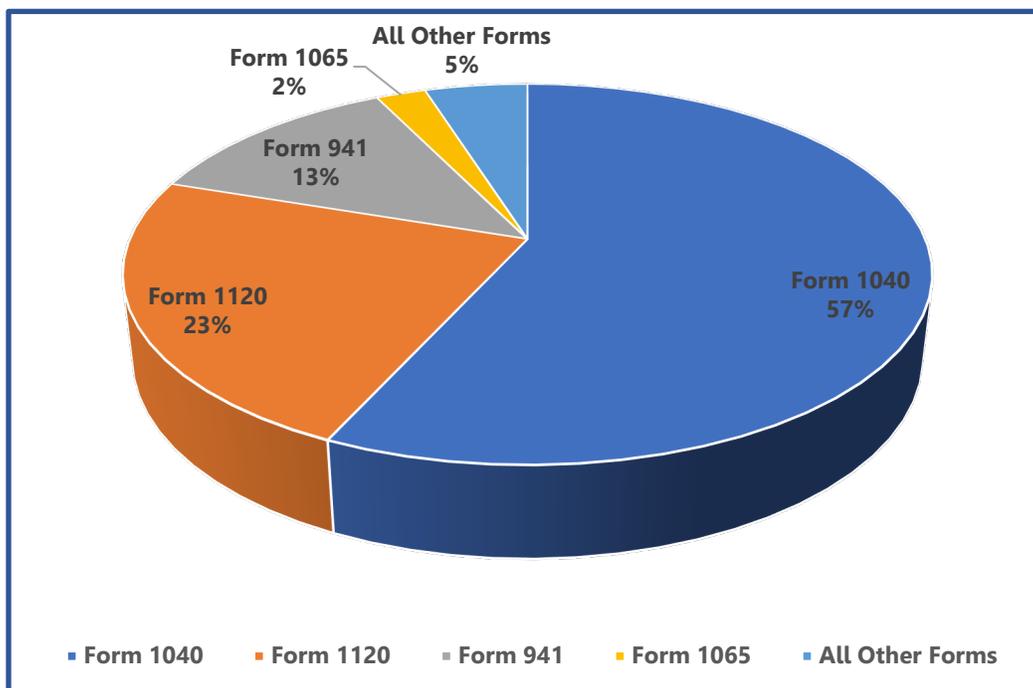
## Appendix II

### Sampling and Audit File Review Methodology

#### Methodology used to identify the universe of audit files and the sample size

To determine the number of taxpayer audit files for which taxpayers were requested to extend the assessment statute of limitations, we identified 4,385 closed taxpayer audit files from the combined universe of IMF and BMF audit files in which the assessment statute was extended and the examination subsequently closed. The period covered taxpayer audit files in which the assessment statute was extended between October 1, 2019, and September 30, 2020. Figure 1 shows that the majority of these consents were obtained for Forms 1040, *U.S. Individual Income Tax Return*, followed by Forms 1120, *U.S. Corporation Income Tax Return*; Forms 941, *Employer's QUARTERLY Federal Tax Return*; Forms 1065, *U.S. Return of Partnership Return*; and all other forms.<sup>1</sup>

**Figure 1: Percentage of Extensions by Form**



Source: Analysis of IMF and BMF records in which the assessment statute of limitations was extended between October 1, 2019, and September 30, 2020.

Our universe of 4,385 taxpayer audit files consisted of two strata: IMF (2,493) and BMF (1,892) closed taxpayer audit files. Our contracted statistician assisted with reviewing our

<sup>1</sup> The remaining forms in "Other" include forms such as Form 990 and 990T, *Return of Organization Exempt From Income Tax*; Form 990-PF, *Return of Private Foundation or Section 4947(a)(1) Trust Treated as Private Foundation*; Form 709, *United States Gift (and Generation-Skipping Transfer) Tax Return*; Form 1042, *Annual Withholding Tax Return for U.S. Source Income of Foreign Persons*; Form 720, *Quarterly Federal Excise Tax Return*; Form 1041, *U.S. Income Tax Return (for Estates and Trusts)*; Form 940, *Employer's Annual Federal Unemployment Tax Return*; Form 945, *Annual Return of Withheld Federal Income Tax*; and Form 5330, *Return of Excise Taxes Related to Employees Benefit Plans*.

sampling plan. We used a 90 percent confidence level, an 8.4 percent expected error rate, and a  $\pm 6$  percent precision to determine our sample size of 59 taxpayer audit files, which consisted of 34 IMF and 25 BMF taxpayer audit files. We over-sampled and requested 100 taxpayer audit files. We received 40 taxpayer audit files, which consisted of 28 IMF and 12 BMF taxpayer audit files.

### **Methodology used to identify noncompliance with legal requirements related to requests to extend the Assessment Statute**

We reviewed the sample of 40 taxpayer audit files and identified [REDACTED]

[REDACTED] Our contracted statistician assisted with developing sample projections. The range of lower and upper limits was calculated using a 4.11 percent error rate and a 90 percent confidence interval between 0 percent (lower limit) and 12.39 percent (upper limit). Based on this, we projected to the general population of all 4,385 audit files and estimated that there were [REDACTED] in which taxpayers were not properly notified of their rights when the assessment statutes were extended. [REDACTED]

### **Methodology used to identify noncompliance with IRS internal procedures for notification of taxpayers**

To determine the number of taxpayer audit files for which taxpayers were requested to extend the assessment statute of limitations, we identified a universe of 4,385 taxpayer audit files, which consisted of two strata: IMF (2,493) and BMF (1,892) closed taxpayer audit files for which the assessment statute was extended and the examination subsequently closed. The period covered IMF and BMF taxpayer audit files for which the assessment statute was extended between October 1, 2019, and September 30, 2020. We used a 90 percent confidence level, an 8.4 percent expected error rate, and a  $\pm 6$  percent precision to determine our sample size of 40 taxpayer audit files, which consisted of 28 IMF and 12 BMF taxpayer audit files.

We reviewed the sample of 40 taxpayer audit files and identified nine (22.5 percent) taxpayer audit files (five IMF and four BMF audit files) that did not contain documentation to show that the taxpayers were properly informed of their rights. Our contracted statistician assisted with developing sample projections. The range of lower and upper limits was calculated using a 7.4 percent error rate and a 90 percent confidence interval between 12.37 percent (lower limit) and 36.7 percent (upper limit). Based on this, we projected to the general population of all 4,385 audit files and estimated that there were 1,076 audit files in which taxpayers were not properly notified of their rights when the assessment statutes were extended. We are 90 percent confident that the range of procedural errors is between 542 and 1,609 taxpayer audit files.

### **Methodology used to identify noncompliance with IRS internal procedures for notification of taxpayer representatives**

We reviewed the same sample of 40 taxpayer audit files and identified 33 taxpayer audit files that contained an authorization for a third party to represent the taxpayer before the IRS. Although we were able to determine that there were 33 taxpayer representatives in our sample

**Fiscal Year 2021 Statutory Audit of Compliance With Notifying Taxpayers  
of Their Rights When Requested to Extend the Assessment Statute**

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of 40 taxpayer audit files, we were unable to determine the true number of taxpayer representatives in our sampled population of 4,385 taxpayer audit files with statute extensions. Of the 40 taxpayer audit files reviewed, seven (17.5 percent) audit files showed no documentation to support that the employees provided the representatives with a copy of the written communications provided to the taxpayers.

Our contracted statistician assisted with developing sample projections. The range of the lower and upper limits was calculated using a 6.98 percent error rate and a 90 percent confidence interval between 9 percent (lower limit) to 31.95 percent (upper limit). Based on this, we projected to the general population of all 4,385 audit files and estimated that 898 audit files in which the taxpayer was represented by an authorized representative were noncompliant. The 90 percent confidence interval for this projection is 394 to 1,401 audit files.

## Appendix III

### Audit Review Results by Business Operating Division

Type of Noncompliance	Business Operating Division <sup>1</sup>					Total
	Appeals	LB&I	SB/SE	TE/GE	W&I	
Noncompliance With the Legal Requirement to Notify Taxpayers	■	■	■	■	■	■
Noncompliance With IRS Internal Procedural Requirement to Notify Taxpayers	■	■	■	■	■	9
Noncompliance With IRS Internal Procedural Requirement to Notify Taxpayer Representatives (when required) <sup>2</sup>	■	■	■	■	■	7
Number of Taxpayer Audit Files Reviewed	■	■	30	■	■	40

<sup>1</sup> Independent Office of Appeals, Large Business and International (LB&I) Division, Small Business/Self-Employed (SB/SE) Division, Tax Exempt and Government Entities (TE/GE) Division, and Wage and Investment (W&I) Division.

<sup>2</sup> Of the 40 taxpayer audit files reviewed, 33 taxpayer audit files contained an authorization for a third party to represent the taxpayer before the IRS.

## **Appendix IV**

### **Recent Audit Reports Related to This Statutory Review**

1. TIGTA, Report No. 2020-30-047, *Fiscal Year 2020 Statutory Audit of Compliance With Notifying Taxpayers of Their Rights When Requested to Extend the Assessment Statute* (Aug. 2020).
2. TIGTA, Report No. 2019-30-054, *Fiscal Year 2019 Statutory Audit of Compliance With Notifying Taxpayers of Their Rights When Requested to Extend the Assessment Statute* (Aug. 2019).
3. TIGTA, Report No. 2018-30-059, *Fiscal Year 2018 Statutory Audit of Compliance With Notifying Taxpayers of Their Rights When Requested to Extend the Assessment Statute* (Aug. 2018).
4. TIGTA, Report No. 2017-30-047, *Fiscal Year 2017 Statutory Audit of Compliance With Notifying Taxpayers of Their Rights When Requested to Extend the Assessment Statute* (July 2017).
5. TIGTA, Report No. 2016-30-081, *Fiscal Year 2016 Statutory Audit of Compliance With Notifying Taxpayers of Their Rights When Requested to Extend the Assessment Statute* (Aug. 2016).
6. TIGTA, Report No. 2015-30-071, *Fiscal Year 2015 Statutory Audit of Compliance With Notifying Taxpayers of Their Rights When Requested to Extend the Assessment Statute* (Aug. 2015).
7. TIGTA, Report No. 2014-30-066, *Fiscal Year 2014 Statutory Audit of Compliance With Notifying Taxpayers of Their Rights When Requested to Extend the Assessment Statute* (Aug. 2014).
8. TIGTA, Report No. 2013-30-071, *Fiscal Year 2013 Statutory Audit of Compliance With Notifying Taxpayers of Their Rights When Requested to Extend the Assessment Statute* (July 2013).
9. TIGTA, Report No. 2012-30-102, *Fiscal Year 2012 Statutory Audit of Compliance With Notifying Taxpayers of Their Rights When Requested to Extend the Assessment Statute* (Sept. 2012).
10. TIGTA, Report No. 2011-30-055, *Fiscal Year 2011 Statutory Audit of Compliance With Notifying Taxpayers of Their Rights When Requested to Extend the Assessment Statute* (June 2011).

Abbreviations

BMF	Business Master File
COVID-19	Coronavirus Disease 2019
FY	Fiscal Year
IMF	Individual Master File
I.R.C.	Internal Revenue Code
IRM	Internal Revenue Manual
IRS	Internal Revenue Service
RRA 98	Restructuring and Reform Act of 1998
TIGTA	Treasury Inspector General for Tax Administration



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