

TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION



Fiscal Year 2024 Review of Assessment Statute Extension Dates

March 7, 2024

Report Number: 2024-100-018

Why TIGTA Did This Audit

This audit was initiated because TIGTA is statutorily required to annually determine whether the IRS complied with Internal Revenue Code § 6501(c)(4)(B), which requires the IRS to 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 to specific issues.

Impact on Tax Administration

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 may be adversely affected if the IRS does not follow the requirements to notify the taxpayers of their rights related to assessment statute extensions.

What TIGTA Found

The IRS was compliant with the legal requirements related to requests to extend the assessment statute. Specifically, the IRS complied with the legal requirement to notify taxpayers of their rights when requesting an extension of the assessment statute of limitations.

Our review of a judgmentally selected sample of 36 taxpayer audit files closed between October 1, 2022, and March 31, 2023, in which the taxpayers agreed to extend the statute expiration date found that the IRS complied with the legal requirements. We did not identify any instances in which the IRS failed to provide notice to the 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.

TIGTA ordered 25 paper audit files from the IRS, but only received one, or 4%, of those files.



As in years past, the IRS had difficulties providing most of the paper documents requested. TIGTA initially ordered 25 paper audit files, but only received one (4 percent) of them from the IRS. The IRS stated that particular records that support adjustments to a taxpayer's account after an IRS examination are difficult to provide. The IRS is experiencing a backlog of inventory for intake of these types of documents. TIGTA is currently evaluating this backlog and has identified challenges the IRS is facing while attempting to eliminate the significant backlog of adjustment source documents.

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 comments.



TREASURY INSPECTOR GENERAL
FOR TAX ADMINISTRATION

U.S. DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20024

March 7, 2024

MEMORANDUM FOR: COMMISSIONER OF INTERNAL REVENUE

A handwritten signature in black ink, appearing to read "MA Weir", is positioned above the typed name.

FROM: Matthew A. Weir
Acting Deputy Inspector General for Audit

SUBJECT: Final Audit Report – Fiscal Year 2024 Review of Assessment Statute
Extension Dates (Audit No.: 2024100006)

This report presents the results of our review to determine whether the Internal Revenue Service is properly notifying taxpayers and their authorized representatives of the right to refuse to extend the period of limitations, or to limit such extensions to specific issues or to a specific period of time, on each occasion when the taxpayer is requested to provide written consent to extend the period of limitations for the assessment of tax. This review is part of our Fiscal Year 2024 Annual Audit Plan and addresses the major management and performance challenge of *Taxpayer Rights*.

If you have any questions, please contact me or Bryce Kisler, Assistant Inspector General for Audit (Management Services and Exempt Organizations).

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Background

The Internal Revenue Service (IRS) is required by the IRS Restructuring and Reform Act of 1998 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 tax.¹ When the IRS audits a tax return and determines that there is an additional tax liability, the additional assessment must be made within three years of the original return due date or the date 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.²

To extend the statute, the IRS generally requests that the taxpayer(s) provide a signed consent, Form 872, *Consent to Extend the Time to Assess Tax*, or Form SS-10, *Consent to Extend the Time to Assess Employment Taxes*.³ These consents extend the assessment statute of limitations for either a specific period of time or an unlimited, indefinite period. The statute is usually extended for a period that both the IRS and the taxpayer agree is reasonable to complete the audit. The consent can also be negotiated to apply only to certain tax issues.

When passing the IRS Restructuring and Reform Act of 1998, Congress expressed concern that taxpayers have not always been fully aware of their right to refuse to extend the statute of limitations or to request that a statute extension be limited to a specific period of time or to a specific issue (taxpayers may feel they have no choice but to agree to extend the statute upon the request of the IRS).⁴ In addition, Congress addressed the dual notification of taxpayers by stating that the IRS must notify all taxpayers that filed joint returns of their right to elect to limit their joint and/or several liabilities under this provision.

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



The taxpayer may want to pursue additional tax issues that are in the taxpayer's favor to offset a proposed tax assessment or allow for a tax refund.



The taxpayer may want to extend the amount of time they have to go to the IRS Independent Office of Appeals (hereafter referred to as Appeals). If the remaining time before the statute expires is too short, the IRS may have to prematurely stop the audit process and issue a statutory notice of deficiency. Once a statutory notice of deficiency has been issued, the taxpayer can no longer go to Appeals as the only recourse is to file a petition with the U.S. Tax Court.

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

² There are some exceptions to the three-year statute of limitations. For example, I.R.C. § 6501(c)(1) extends the assessment statute indefinitely when false or fraudulent returns are filed.

³ IRS employees who most often request assessment statute extensions are tax examiners and revenue agents in the various business operating divisions and appeals officers in the IRS Independent Office of Appeals.

⁴ S. Rep. No. 105-174 (1998).

A taxpayer may decide to limit or refuse to extend the assessment statute of limitations because:



The taxpayer may not want to provide the IRS additional time to consider additional tax issues.



The taxpayer may not want to provide the IRS additional time to further develop tax issues already under consideration.

In response to our Fiscal Year 2004 report, the IRS revised the various consent forms and incorporated them into the Internal Revenue Manual. The revised consent forms include a prominent statement informing taxpayers of their rights regarding assessment statute extensions, as provided for in I.R.C. § 6501(c)(4)(B) and provide information on Publication 1035, *Extending the Tax Assessment Period*.

Figure 1: Excerpt of the Taxpayer Rights Statement and Signature Block From Form 872

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 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.

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).

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.

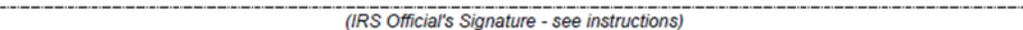
If this document is signed by a taxpayer's representative, the Form 2848, Power of Attorney and Declaration of Representative, or other power of attorney document must state that the acts authorized by the power of attorney include representation for the purposes of Subchapter C of Chapter 63 of the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

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

The consent form also includes a place for an IRS official's signature. Prior to signing the consent form, the manager should review the audit file and consent form in compliance with Internal Revenue Manual 25.6.22.5.13(1), *Manager's Responsibilities When Signing Consents* (November 17, 2021). Figure 2 shows the IRS official's signature section.

Figure 2: Excerpt of IRS Official's Signature Block From Form 872

INTERNAL REVENUE SERVICE SIGNATURE AND TITLE

 <i>(IRS Official's Name - see instructions)</i>	 <i>(IRS Official's Title - see instructions)</i>
 <i>(IRS Official's Signature - see instructions)</i>	 <i>(Date signed)</i>

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

The revised consent forms include a statement for the taxpayers' representatives to sign, confirming that they were notified of the rights regarding assessment statute extensions and that the taxpayers were made aware of the same advice of rights. In April 2012, the consent form was again revised to include the extension for partnerships, eliminating the need for a different consent form for partnerships.

The Treasury Inspector General for Tax Administration has completed 24 statutory reviews (Fiscal Years 2000 through 2023) of the IRS's compliance with requirements for requesting extensions of a taxpayer's statute of limitations for assessments.

Results of Review

The IRS complied with legal requirements to notify taxpayers of their rights when requesting an extension of the statute of limitations for assessing additional taxes and penalties.

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

We reviewed a judgmental sample of 36 closed taxpayer audit files from the Individual Master File and the Business Master File⁵ for cases in which taxpayers granted the IRS an extension of the statute expiration date and found that the IRS complied with the legal requirements.⁶ We did not identify any instances in which the IRS failed to provide notice to the 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 to specific issues. In all 36 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.



Our review of the 36 judgmental sample cases related to requests to extend the assessment statute found that the IRS complied with the legal requirements.

⁵ The Business Master File is the IRS database that consists of Federal tax-related transactions and accounts for businesses. These include employment taxes, income taxes on businesses, and excise taxes. The Individual Master File is the IRS database that maintains transactions or records of individual tax accounts.

⁶ A judgmental sample is a nonprobability sample, the results of which cannot be used to project to the population.

The IRS Had Difficulties Providing Requested Files

Like our prior four reviews, the IRS was unable to provide many of the taxpayer audit files that we requested for this review. In November 2023, we ordered 60 closed audit files to obtain our designated sample (25 paper audit files and 35 paperless audit files). By January 31, 2024, we received only one (4 percent) of the 25 paper audit files ordered. The IRS stated that particular records that support adjustments to a taxpayer's account after an IRS examination are difficult to provide. The IRS is experiencing a backlog of inventory for intake of these types of documents. The Treasury Inspector General for Tax Administration is currently evaluating this backlog and has identified challenges the IRS is facing while attempting to eliminate the significant backlog of adjustment source documents.⁷

⁷ Treasury Inspector General for Tax Administration, Evaluation No. IE-23-006, *A Comprehensive Strategy Is Needed to Address the Significant Backlog of Adjustment Source Documentation Inventory*.

Appendix I

Detailed Objective, Scope, and Methodology

The overall objective of this review was to determine whether the IRS is properly notifying taxpayers and their authorized representatives of the right to refuse to extend the period of limitations, or to limit such extensions to specific issues or to a specific period of time, on each occasion when the taxpayer is requested to provide written consent to extend the period of limitations for the assessment of tax. To accomplish our objective, we:

- Determined whether taxpayers and their representatives were advised of the taxpayers' rights when the IRS requested an extension of the assessment statute.
- Reviewed the Internal Revenue Manual, IRS memoranda, and other guidelines, as applicable, and identified if there were any changes to existing procedures and practices for notifying taxpayers when requesting to extend the assessment statute of limitations since our last audit.
- Selected judgmental samples of 60 case files from our universe of 3,726 combined Business Master File and Individual Master File closed examination cases for which the assessment statute of limitations were extended between October 1, 2022, and March 31, 2023.¹ The sample was selected to obtain a diverse selection based on the tax year the extension was completed and account indicators of paper and paperless case files.

Performance of This Review

This review was performed with information obtained from 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 located in Washington, D.C., during the period October 2023 through February 2024. 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 finding and conclusions based on our audit objective.

Major contributors to the report were Bryce Kisler, Assistant Inspector General for Audit (Management Services and Exempt Organizations); Glen Rhoades, Director; Meaghan Tocco, Audit Manager; and Evan Close, Lead Auditor.

Data Validation Methodology

We evaluated the data extracts by performing tests to assess the reliability of the data obtained from the Business Master File and the Individual Master File. We also evaluated the data by running queries on the population to ensure that the data met our criteria, and no information

¹ A judgmental sample is a nonprobability sample, the results of which cannot be used to project to the population.

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 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 to request that any extension be limited to a specific period of time or to specific issues. We evaluated these controls by reviewing the Internal Revenue Manual, confirming documentation found in the audit file such as Form 872 or Form SS-10, and reviewing our judgmental sample of 36 taxpayer audit files.

Appendix II

Abbreviations

I.R.C.	Internal Revenue Code
IRS	Internal Revenue Service



**To report fraud, waste, or abuse,
contact our hotline on the web at www.tigta.gov or via e-mail at
oi.govreports@tigta.treas.gov.**

**To make suggestions to improve IRS policies, processes, or systems
affecting taxpayers, contact us at www.tigta.gov/form/suggestions.**

Information you provide is confidential, and you may remain anonymous.