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

COMMISSIONER

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March 30, 2001

MEMORANDUM FOR TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION

FROM: Charles O. Rossotti
Commissioner of Internal Revenue

SUBJECT: Draft Audit Report – Additional Action Is Needed to Eliminate Illegal Tax Protestor Designations (Audit No. 199910112)

Thank you for the opportunity to review and comment on your recent draft report titled "Additional Action Is Needed to Eliminate Illegal Tax Protester Designations." The report, in accordance with the Restructuring and Reform Act of 1998 (RRA 98), section 3707, is a review of the IRS procedures and practices to eliminate the Illegal Tax Protester (ITP) designation from all areas of operation, databases, taxpayer case files, Internal Revenue Manuals (IRMs), and other documents. You have provided us with an insightful and thoughtful report, including recommendations that will help us continue to improve our procedures.

I also want to assure you that the IRS is strongly committed to implementing the letter and spirit of RRA98 – particularly as it relates to the ITP designation. That is why we were pleased to note your report found our procedures should enable IRS employees to protect taxpayer rights and comply with the law in this area. We agree with your recommendation to provide further guidance because it will help us address the remaining issues with regard to the implementation of this important provision.

We have taken the following steps to communicate and reinforce the requirements prohibiting IRS officers and employees from using the ITP or any similar designation:

- Issued memorandums to IRS employees providing guidelines to discontinue the use of the ITP or any other similar designations, remove those existing designations from individual masterfile and other databases, and disregard any designation not located in the individual masterfile.

- Posted a question and answer paper, clarifying section 3707 issues and memorandums on section 3707, to the National Resource Center website.

- Submitted a Request for Information Services (RIS) (EXM-8-0106) to eliminate the transaction code (TC) 148-02 from the masterfile. The TC148-02 was an indicator identifying ITPs.

- Eliminated references to the ITP designation in the Internal Revenue Manuals and other internal documents.

Our response to the recommendations in the draft report follows:

IDENTITY OF RECOMMENDATION/FINDING 1
The national heads of office should remind managers and employees within the Appeals, Collection, Customer Service, Examination, and Taxpayer Advocate offices that ITP references are not to be made in IRS case files. Managers should counsel employees who use the ITP reference.

ASSESSMENT OF CAUSE(S)
Although the Chief, Operations Office has issued several memorandums to the field, we agree that additional guidance would help remind IRS employees to not make ITP references in case files.

CORRECTIVE ACTIONS
National heads of office will issue a follow-up memo to remind managers and employees that ITP references are not to be made in case files. Managers will be directed to counsel employees who use the ITP reference.

IMPLEMENTATION DATE
July 1, 2001

RESPONSIBLE OFFICIALS
Commissioner LMSB
Commissioner SB/SE
Commissioner W&I
National Chief, Appeals
National Taxpayer Advocate

IDENTITY OF RECOMMENDATION/FINDING 2
The Commissioner LMSB, the Commissioner SB/SE, the Commissioner W&I and the National Taxpayer Advocate should review and remove any remaining ITP coding from active taxpayer files within the Audit Information Management System (AIMS) and the Taxpayer Advocate Management Information System (TAMIS).

ASSESSMENT OF CAUSE(S)
The Examination AIMS developed a series of project codes from 000 – 900. The system does not validate the project codes at input. This allows Examination to define to a project code as needed rather than have to submit a RIS for validation, which can take up to 18 months to implement. Project Code 085, Constitutional Type Protesters and others, no longer has any definition assigned to it and if input, is extracted as

project code 000 for Exam Reporting purposes. This is why you may still find Project Code 085 on the AIMS database, but you will not find it on any Exam Reports or Tables defined as an ITP.

Taxpayer Advocate's Application for Taxpayer Assistance Orders (ATAO) Code/Subcode 01a is currently one of 19 ATAO codes and/or subcodes with the meaning of "Reserved." It is somewhat misleading to state the code still means "Protester." These 19 codes/subcodes in "reserved" status will be reviewed as part of a major overhaul of ATAO coding and in light of the current reorganization and role of the Taxpayer Advocate Service (TAS).

CORRECTIVE ACTIONS
Assistant Commissioner (Examination) submitted a RIS (EXM-0-0093-A00) to invalidate the 085 project code and clean up AIMS by replacing project code 085 with 000.

The TAMIS Project Managers removed ITP ATAO coding (including screen and help screen literals) from the TAMIS application on July 30-31, 1999. The meaning of ATAO Code and Subcode 01a was changed from "Protester" to "Reserved." The TAS personnel were notified of the change and shortly thereafter the TAS Case Processing Guide was also changed to indicate that ATAO Code 01a no longer had any meaning but was reserved for future use. We do not have ATAO coding or subcoding, expressed or implied, which designates or connotes "Protester" on the active TAMIS database (FY 98, 99, and 00 closed and open cases). We asked the Office of the Taxpayer Advocate to certify that every local office has instructed all TAMIS users to discontinue use of TAMIS ATAO Code and Subcode 01a. In addition, we have told the Las Vegas Development Center (TAS's IS support personnel) to disable any future input of ATAO 01a coding. Since the RRA 98 prohibition of the Illegal Tax Protester designation became effective on July 22, 1998, approximately 764 cases on TAMIS reflected ATAO 01a coding. All offices changed the 01a coding to a more appropriate ATAO Code and Subcode and certified the 01a coding has been changed.

IMPLEMENTATION DATE
Commissioner SB/SE: January 1, 2002
National Taxpayer Advocate: July 1, 2001

RESPONSIBLE OFFICIAL
Commissioner SB/SE
National Taxpayer Advocate

IDENTITY OF RECOMMENDATION/FINDING 3
The National Taxpayer Advocate and the Chief Information Officer should expedite the resolution of the Informix application problem in order for TAMIS programming to be updated.

ASSESSMENT OF CAUSE(S)
During the audit, Informix and IS resolved these problems through the roll out of TAMIS 3.3 in July. TAS will submit a Request for Information Services to execute the overhaul of TAMIS programming.

CORRECTIVE ACTIONS
Although they have no meaning, TAMIS users can input and use the "reserved" codes. In deference to the report's findings, we re-informed all Advocate offices not to use ATAO Code/Subcode 01a and have instructed TAS's IS Support Personnel to systemically block any input of ATAO Code/Subcode 01a.

IMPLEMENTATION DATE
July 1, 2001

RESPONSIBLE OFFICIAL
National Taxpayer Advocate
Chief Information Officer

IDENTITY OF RECOMMENDATION/FINDING 4
The Assistant Commissioner (Examination), in coordination with the Director for Systems Development, should implement a computer validity check to the AIMS that will prevent the input of ITP Coding.

ASSESSMENT OF CAUSE(S)
Examination's AIMS developed a series of project codes from 000 – 900. The system does not validate the project codes at input. This allows Examination to define a project code as needed rather than having to submit a RIS for validation, which can take up to 18 months to implement. Project Code 085, Constitutional Type Protesters and others, no longer has any definition assigned to it and if input, is extracted as project code 000 for Exam Reporting purposes. This is why you may still find Project Code 085 on the AIMS database, but you will not find it on any Exam Reports or Tables defined as an ITP.

CORRECTIVE ACTIONS
The Assistant Commissioner (Examination) submitted a RIS (EXM-0-0093-A00) to invalidate the project code and clean up AIMS by replacing project code 085 with 000.

IMPLEMENTATION DATE
January 01, 2002

RESPONSIBLE OFFICIAL
Commissioner SB/SE

IDENTITY OF RECOMMENDATION/FINDING 5
Each IRS division should review its operational manuals for ITP references. These references should be removed upon the next revision of the manuals.

ASSESSMENT OF CAUSE(S)
Although the Chief Operations Officer issued directives to eliminate references to ITP terminology and programs, we agree these directives were not properly completed since ITP references still exist. The Compliance Automated Research Tools System (CARTS) is one of several ways, which are based on the official IRM files maintained by Multimedia Production, to research the IRM. The CARTS is only periodically updated (last update February 2000), using it to search the IRM for ITP references can be a problem. We are continuing to update the IRM and remove referrals to ITP. However, ITP designations still remain in the official IRM. Therefore, CARTS will continue to contain such references until it is replaced by a Lexis-Nexis database by year-end. The Lexis-Nexis database will receive weekly IRM updates from Multimedia Production and become the primary research vehicle for field personnel.

CORRECTIVE ACTIONS
The former Assistant Commissioner (Examination) instructed the owners of various IRMs that the term ITP must be removed from the IRM. Many of those corrections have since been made. To ensure that all such cites are corrected, the Office of Servicewide Policy, Directives and Electronic Research (SPDER) had Multimedia Publishing conduct a computer run with a filter to identify any remaining references to ITP in the new IRM. SPDER will follow up with the responsible functions on any remaining ITP references for correction. References should be removed from operational manuals upon the next revision of the manuals which will be occurring FY 2001.

IMPLEMENTATION DATE
SPDER will request status report from the responsible functional owners of the IRM on their corrective actions by July 1, 2001.

RESPONSIBLE OFFICIALS
Commissioner LMSB
Commissioner SB/SE
Commissioner TE/GE
Chief, AWSS
National Chief, Appeals
Chief, CI
Commissioner W&I
Chief Information Officer
Chief, C&L
National Taxpayer Advocate

IDENTITY OF RECOMMENDATION/FINDING 6
The Assistant Commissioner (Forms and Submission Processing), with the assistance of the appropriate division, should ensure current employees (publishing analysts and originators) are assigned to review the publications within the 2-year review period, as stated in their guidelines.

ASSESSMENT OF CAUSE(S)
Publications are regularly reviewed and evaluated by originators, who are responsible for technical content. The originators should review their publications for tax law relevance and ITP references. They either failed to thoroughly review the publications or missed references to ITPs. In addition, we have no way to ensure that each originator accomplish the review on a timely basis.

CORRECTIVE ACTIONS
Ensure that originators understand they are required to review each publication for ITP references. Multimedia Division will implement a process to ensure originators are notified of their review requirements and will follow up to ensure reviews are accomplished.

IMPLEMENTATION DATE
Ensure a process for notifying originators of their review requirements, and follow up on them is in place by July 1, 2001.

RESPONSIBLE OFFICIAL
Director, Communications, Assistance, Research and Education

IDENTITY OF RECOMMENDATION/FINDING 7
The appropriate originator, in coordination with the Assistant Commissioner (Forms and Submission Processing), should revise or label as obsolete the 15 publications that we identified with ITP references.

ASSESSMENT OF CAUSE(S)
Originators regularly reviewed and evaluated publications for obsolescence. They reviewed the publications' content for tax law relevance; they did not look for ITP references.

CORRECTIVE ACTIONS
We will consider RRA 98 recommendations as part of each publication's review process.

IMPLEMENTATION DATE
Ensure by July 1, 2001, all 15 publications identified in the audit are reviewed to eliminate illegal tax protestor references or label as obsolete.

RESPONSIBLE OFFICIAL
Director, Communications, Assistance, Research and Education.

If you have any questions or need additional information, please call me, or a member of your staff can contact Nestor Cordero at (202) 343-0043.