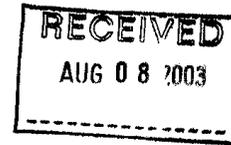




COMMISSIONER  
SMALL BUSINESS/SELF-EMPLOYED DIVISION

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



AUG 6 2003

MEMORANDUM FOR TREASURY INSPECTOR GENERAL FOR TAX  
ADMINISTRATION

FROM: Dale F. Hart *Delectat by M.S. 11.2*  
Commissioner, Small Business/Self-Employed Division

SUBJECT: Draft Audit Report – The Controls Over the Employer  
Abatement Program Cases Can Be Improved (Audit #  
200230039)

I have reviewed your report and agree with your findings and recommendations. We are continuing to improve our control of the Employer Abatement Program to ensure that we effectively address noncompliance in this area.

The Employer Abatement Program (also known as the IRC 861<sup>1</sup> Stop-Filing Scheme) was designed to stop abusive taxpayers and promoters from claiming wages as nontaxable income and filing amended employment tax returns to request refunds on previously paid employment taxes. We have achieved major accomplishments in the program, such as filing injunctions against eight of nine identified promoters through the Department of Justice. We have also had national media coverage alerting taxpayers not to participate in the schemes.

Our comments on your recommendations follow:

**RECOMMENDATION 1**

Gather and summarize the best information that is currently available on completed examinations to determine the effectiveness of the program.

**CORRECTIVE ACTION**

During the audit, Compliance Management revised the return control procedures. All Employer Abatement Program employment tax returns referred by the Ogden Frivolous Return Program (FRP) to Planning and Special Programs (PSP) and the field, are input

<sup>1</sup> IRC refers to the Internal Revenue Code, also known as 26 U.S.C, and 861 refers to the specific section of the Code titled, "Income from Sources Within the United States."

into the Audit Information Management System (AIMS) with Project Code 134. In a memorandum issued to the field on April 8, 2003, we asked field personnel to conduct research to identify and track cases previously sent but not controlled on the AIMS. The field offices were provided a listing of cases. They are determining the status of the cases, and completing and forwarding the referral worksheets. A newly formed Internal Revenue Code Section 861 Issue Management Team (IMT) will monitor the guidance and direction of the program.

**IMPLEMENTATION DATE**

November 15, 2003

**RESPONSIBLE OFFICIAL(S)**

Director, Reporting Enforcement, Small Business/Self-Employed Division

**CORRECTIVE ACTION MONITORING PLAN**

The Abusive Tax Avoidance Transaction (Domestic) Program Manager will work closely with the IMT and advise the Director, Reporting Enforcement of any delays in the corrective action.

**RECOMMENDATION 2**

Reemphasize to examiners and managers the need to update the referral worksheets.

**CORRECTIVE ACTION**

The Abusive Tax Avoidance Transaction (Domestic) Program Manager, in coordination with the IRC Section 861 IMT, will evaluate the existing policy and procedures to determine if they are adequate. Once this review is completed, we will provide appropriate guidance to the field offices.

**IMPLEMENTATION DATE**

November 15, 2003

**RESPONSIBLE OFFICIAL(S)**

Director, Reporting Enforcement, Small Business/Self-Employed Division

**CORRECTIVE ACTION MONITORING PLAN**

The Abusive Tax Avoidance Transaction (Domestic) Program Manager will advise the Director, Reporting Enforcement of any delays in the corrective action.

**RECOMMENDATION 3**

The Director, Compliance, Small Business/Self-Employed (SB/SE) Division, should reemphasize the priority of timely working these cases to both examiners and managers.

**CORRECTIVE ACTION**

The Abusive Tax Avoidance Transaction (Domestic) Program Manager will work with the IMT to establish a follow-up system to ensure examinations are worked in a timely manner. Once program guidance and direction are determined, all Fiscal Year 2004 program reviews will include an analysis of the adherence to the directions.

**IMPLEMENTATION DATE**

November 15, 2003

**RESPONSIBLE OFFICIAL(S)**

Director, Reporting Enforcement, Small Business/Self-Employed Division

**CORRECTIVE ACTION MONITORING PLAN**

The Abusive Tax Avoidance Transactions (Domestic) Program Manager will advise the Director, Reporting Enforcement of any delays in the corrective action.

**RECOMMENDATION 4**

The Director, Compliance, SB/SE Division, should reevaluate the screening process to help ensure that only cases in the most need of examination are selected for examination.

**CORRECTIVE ACTION**

We increased staffing in the Ogden FRP group to handle the growing number of leads. Additionally, in May 2003, we modified the screening criterion based on dollar amounts. We will develop more stringent screening criteria. We will share this new selection filter with the FRP group. The screening process will ensure only very questionable or suspicious leads are sent to the area offices.

**IMPLEMENTATION DATE**

November 15, 2003

**RESPONSIBLE OFFICIAL(S)**

Director, Reporting Enforcement, Small Business/Self-Employed Division

**CORRECTIVE ACTION MONITORING PLAN**

The Abusive Tax Avoidance Transactions (Domestic) Program Manager, in coordination with the IRC Section 861 IMT, will reevaluate the screening process for leads sent to the field and will monitor the process to ensure timely completion of the corrective action.

If you have any questions, please call me at (202) 622-0600 or Joseph R. Brimacombe, Director, Compliance, Small Business/Self-Employed at (202) 283-2200.