

**Efforts Are Still Needed to Discourage
the Use of Illegal Tax Protester
and Similar Designations**

September 2002

Reference Number: 2002-40-162

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.



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

INSPECTOR GENERAL
for TAX
ADMINISTRATION

September 6, 2002

MEMORANDUM FOR COMMISSIONER ROSSOTTI

FROM: Pamela J. Gardiner
Acting Inspector General

SUBJECT: Final Audit Report - Efforts Are Still Needed to Discourage the
Use of Illegal Tax Protester and Similar Designations
(Audit # 200240002)

This report presents the results of our annual statutory review related to Illegal Tax Protester (ITP) and similar designations. The objective of this review was to determine if the Internal Revenue Service (IRS) complied with the IRS Restructuring and Reform Act of 1998 (RRA 98)¹ § 3707 and internal IRS guidelines that prohibit the designation of taxpayers as ITPs or any similar designations.

Prior to enactment of the RRA 98, taxpayers were referred to the ITP Program when their tax returns or correspondence contained specific indicators of noncompliance with the tax law, such as the use of arguments that had been repeatedly rejected by the courts. Once a taxpayer's account was coded as an ITP, certain tax enforcement actions were accelerated. The designation was also intended to alert IRS employees to be cautious so they would not be drawn into confrontations.

The RRA 98 prohibits the IRS from referring to taxpayers as ITPs or any similar designation. The Treasury Inspector General for Tax Administration is required to annually evaluate the IRS' compliance with the prohibition on the use of ITP or any similar designation.²

In summary, we found that the IRS has not reintroduced past ITP codes on the Master File,³ and formerly coded ITP taxpayer accounts have not been reassigned to a similar

¹ Pub. L. No. 105-206, 112 Stat. 685 (codified as amended in scattered sections of 2 U.S.C., 5 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.).

² 26 U.S.C. § 7803(d)(1998).

³ The Master File is an IRS database that stores various types of taxpayer account information. This database includes individual, business, and employee plans and exempt organization data.

ITP designation. The IRS has also removed ITP codes from two inventory management systems and has made obsolete two publications with ITP references. However, the IRS still has not removed all the ITP references from its Internal Revenue Manual (IRM), and IRS employees continue to make references to taxpayers as ITPs and other similar designations in case file histories.

The rights of 303 individual taxpayers were potentially affected due to the use of improper designations. In addition, 144 subsections from various sources of the IRM contained ITP references.

Management's Response:

IRS management responded with general agreement to the recommendations. In addition, they stated that most employees are aware that the ITP designation is prohibited, and that this prohibition has been stressed in training classes, memorandums, and during the quality review process. However, management stated that additional guidance is needed to assist employees in determining what language represents a "similar designation." The IRS Office of Chief Counsel is currently preparing guidance on what represents a "similar designation," as well as, looking at the impact on taxpayer rights with respect to potential RRA 98 § 3707 violations. IRS management's comments have been incorporated into this report where appropriate, and the full text of their response is included in Appendix VI.

Copies of this report are also being sent to the IRS managers who are affected by the report recommendations. Please contact me at (202) 622-6510 if you have questions or Michael R. Phillips, Assistant Inspector General for Audit (Wage and Investment Income Programs), at (202) 927-0597.

**Efforts Are Still Needed to Discourage the Use
of Illegal Tax Protester and Similar Designations**

Table of Contents

Background	Page 1
Illegal Tax Protester Codes Are Not Used on the Master File or Other Internal Revenue Service Computer Systems	Page 2
Internal Revenue Service Publications No Longer Contain Illegal Tax Protester References	Page 3
The Internal Revenue Manual Still Contains Illegal Tax Protester References	Page 3
<u>Recommendation 1:</u>	Page 4
Employees Are Still Using Illegal Tax Protester or Similar Designations in Case Histories	Page 5
<u>Recommendations 2 and 3:</u>	Page 7
Appendix I – Detailed Objective, Scope, and Methodology	Page 8
Appendix II – Major Contributors to This Report	Page 11
Appendix III – Report Distribution List	Page 12
Appendix IV – Outcome Measures	Page 13
Appendix V – Internal Revenue Service Computer Systems	Page 14
Appendix VI – Management’s Response to the Draft Report	Page 15

Efforts Are Still Needed to Discourage the Use of Illegal Tax Protester and Similar Designations

Background

The Internal Revenue Service (IRS) Restructuring and Reform Act of 1998 (RRA 98)¹ § 3707 prohibits the IRS from referring to taxpayers as Illegal Tax Protesters (ITP) or any similar designation. In addition, the RRA 98 requires the removal of all existing ITP codes from the IRS' Master File² and instructs IRS employees to disregard any such designation not located on the Individual Master File.

Prior to enactment of the RRA 98, taxpayers were referred to the ITP Program when their tax returns or correspondence contained specific indicators of noncompliance with the tax law, such as the use of arguments that had been repeatedly rejected by the courts. Once a taxpayer's account was coded as an ITP, certain tax enforcement actions were accelerated. The designation was also intended to alert IRS employees to be cautious so they would not be drawn into confrontations.

The Congress had concerns that some taxpayers were being permanently labeled and stigmatized by the ITP designation. Taxpayers who subsequently complied with the tax laws could continue to be labeled as ITPs, which could bias IRS employees and result in unfair treatment.

The Treasury Inspector General for Tax Administration (TIGTA) is required to annually evaluate the IRS' compliance with the prohibition against using ITP or any similar designation.³ This is the TIGTA's fourth review since Fiscal Year (FY) 1999.⁴ These TIGTA reviews have

¹ Pub. L. No. 105-206, 112 Stat. 685 (codified as amended in scattered sections of 2 U.S.C., 5 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.).

² The Master File is an IRS database that stores various types of taxpayer account information. This database includes individual, business, and employee plans and exempt organizations data.

³ 26 U.S.C. § 7803(d) (1998).

⁴ *The Internal Revenue Service Is Addressing the Use of the Illegal Tax Protester and Nonfiler Designations* (Reference Number 1999-10-080, dated September 1999); *Additional Action Is Needed to Eliminate Illegal Tax Protester Designations* (Reference Number 2000-10-119, dated September 2000); *Improvements Have Been Made to Eliminate Illegal Tax Protester Designations* (Reference Number 2001-10-141, dated September 2001).

Efforts Are Still Needed to Discourage the Use of Illegal Tax Protester and Similar Designations

identified areas for improvement to help the IRS comply with the ITP designation prohibition.

We conducted this audit between November 2001 and April 2002 in the IRS National Headquarters and the Las Vegas, Nevada; Omaha, Nebraska; Pontiac, Michigan; and Raleigh, North Carolina, IRS field offices. We also visited the Fresno, California, and Ogden, Utah, campuses. This audit was conducted in accordance with *Government Auditing Standards*. Detailed information on our audit objective, scope, and methodology is presented in Appendix I. Major contributors to the report are listed in Appendix II. A description of IRS computer systems can be found in Appendix V.

Illegal Tax Protester Codes Are Not Used on the Master File or Other Internal Revenue Service Computer Systems

In prior reviews, the TIGTA reported that the IRS had removed the ITP codes from the Master File as required by the RRA 98. The ITP designation has not been reintroduced on the Master File.

The RRA 98 also prohibits using any designation similar to the ITP. A review of the approximately 57,000 taxpayer accounts formerly coded as ITPs on the Master File identified no reassignments of these taxpayer accounts to any other Master File designations.

In addition to the Master File, the IRS uses other computer inventory systems to manage taxpayer cases. Although the RRA 98 did not specifically require the removal of ITP codes on these other computer systems, the IRS issued directives to prohibit the use of ITP codes on these systems to ensure compliance with the RRA 98 § 3707.

During the TIGTA's FY 2001 review, two computer inventory management systems still contained ITP codes, the Audit Information Management System (AIMS) and the Examination Returns Control System (ERCS). During the FY 2002 review, an AIMS September 2001 data extract and an October 2001 ERCS data extract identified no ITP codes on either system.

**Efforts Are Still Needed to Discourage the Use
of Illegal Tax Protester and Similar Designations**

**Internal Revenue Service
Publications No Longer Contain
Illegal Tax Protester References**

To help promote compliance with RRA 98 § 3707, IRS management issued directives for employees to update various publications to eliminate references to ITP terminology and programs. During the FY 2001 review, two publications still contained ITP references. Since the FY 2001 review, these publications have been revised and labeled as obsolete.

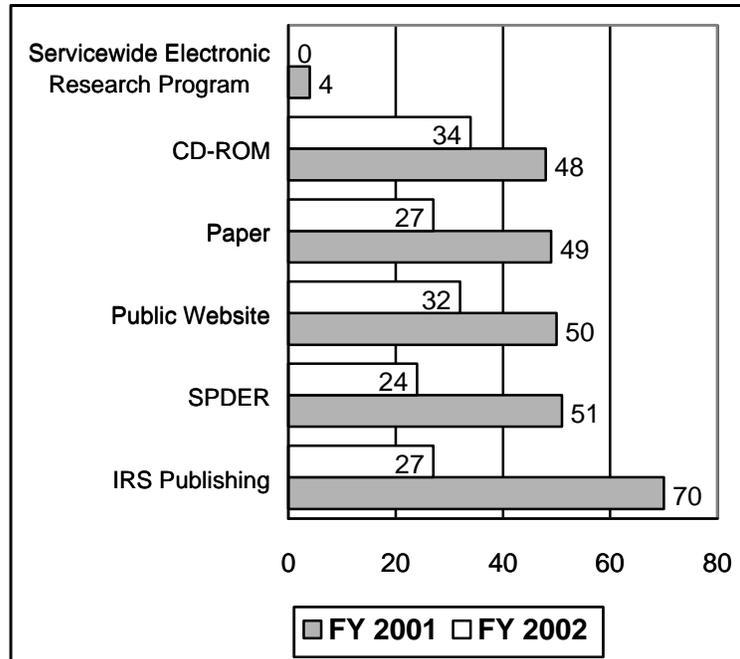
**The Internal Revenue Manual
Still Contains Illegal Tax
Protester References**

During each of the three prior reviews, the TIGTA identified multiple subsections of the Internal Revenue Manual (IRM) that contained ITP or similar references. In October 2001, the IRS responded to the TIGTA's FY 2001 report stating that the Office of Servicewide Policy, Directives, and Electronic Research (SPDER) would eliminate access to all electronic versions of the IRM after June 1, 2001, except for the Multimedia Publishing files and the IRM Online. The Office of SPDER was to provide IRS operating divisions and functions a listing of any remaining ITP or similar references in the IRM, advising them to remove the remaining references. The IRS anticipated that it would purge all references by January 2002.

While the IRS has made some effort to remove ITP or similar references from the various forms of the IRM, it did not ensure that all corrections were completed. As a result, 144 of these references still existed as of March 2002. The existence of ITP or similar references in the IRM may encourage IRS employees to improperly label taxpayers. The following chart compares the number of IRM subsections with ITP or similar references identified by location during TIGTA's FY 2001 and FY 2002 reviews.

Efforts Are Still Needed to Discourage the Use of Illegal Tax Protester and Similar Designations

Comparison of Designations From FYs 2001 and 2002



Source: *Improvements Have Been Made to Eliminate Illegal Tax Protester Designations (Reference Number 2001-10-141, dated September 2001) and current versions of the IRM.*

Recommendation

1. The Office of SPDER should coordinate with each IRS function to remove from or label as obsolete all remaining ITP or similar references in the IRM.

Management's Response: IRS management stated that a recent search of the core IRM repository found 11 ITP references. Each operating division responsible for manual updates will delete these references from the IRM. The Office of SPDER will continue to manage the Internal Management Documents process by coordinating requests from the Multimedia Publishing Division to search IRM files for ITP references. If evidence of ITP references is found, the Office of SPDER will inform the appropriate operating division of the existence of the prohibited term, and monitor the removal of the term based on a timetable provided by the operating division.

Efforts Are Still Needed to Discourage the Use of Illegal Tax Protester and Similar Designations

Employees Are Still Using Illegal Tax Protester or Similar Designations in Case Histories

Our review of a sample of computer systems and paper files used by IRS employees to document case activity identified 303 instances where IRS employees designated taxpayers as “tax protesters,” “ITPs,” “constitutionally challenged,” or other similar designations. These actions are prohibited by RRA 98 § 3707.

IRS employees referred to taxpayers using ITP designations in case histories on the following IRS computer inventory management systems and paper case files.

- **Integrated Collection System (ICS):** A review of approximately 24 million open ICS records identified 203 cases where 166 IRS employees used ITP or a similar designation when referring to specific taxpayers. The following table shows the calendar year in which an IRS employee used ITP or a similar term as a designation in these cases.

**Designations Found in
ICS Case Histories**

Calendar Year	1999	2000	2001	Total⁵
Designations	23	49	131	203

Source: IRS ICS case histories.

- **Automated Collection System (ACS):** A review of approximately 16 million open ACS records identified 91 cases where 81 IRS employees used ITP or a similar designation when referring to specific taxpayers. The following table shows the calendar year in which an IRS employee used ITP or a similar term as a designation in these cases.

⁵ These are open cases from the computer download as of the end of September 2001.

**Efforts Are Still Needed to Discourage the Use
of Illegal Tax Protester and Similar Designations**

**Designations Found in
ACS Case Histories**

Calendar Year	1999	2000	2001	Total⁶
Designations	6	23	55	84

Source: IRS ACS case histories.

- Taxpayer Advocate Management Information System (TAMIS): A review of a judgmental sample of 536 open TAMIS cases identified 5 cases where 4 IRS employees used ITP or a similar designation when referring to specific taxpayers.
- Appeals Consolidated Data System (ACDS): A review of approximately 600,000 current ACDS records identified 2 cases where IRS employees used ITP or a similar designation when referring to specific taxpayers.
- Examination cases:⁷ A review of a judgmental sample of 459 open examination cases identified 2 cases where 2 IRS employees used ITP or a similar designation when referring to specific taxpayers.
- Frivolous Filer Program cases:⁸ A review of a judgmental sample of 75 open Frivolous Filer cases did not identify any cases where an IRS employee used ITP or a similar designation when referring to specific taxpayers.
- Criminal Investigation cases: A review of a judgmental sample of 98 open Criminal Investigation cases did not identify any cases where an IRS employee used ITP or a similar designation when referring to specific taxpayers.

⁶ Our analysis identified seven ACS cases in which IRS employees had labeled taxpayers as ITPs or similar designations since the beginning of Calendar Year 2002. Since this period covered only 2 months, these cases were not included in this chart.

⁷ The judgmental sample included examination cases from three of the four IRS Operating Divisions: Small Business/Self-Employed, Tax Exempt and Government Entities, and Wage and Investment.

⁸ The Frivolous Filer Program was designed to address taxpayers who do not comply with the tax law. This program addresses some of the same tax compliance problems that were previously addressed by the IRS' ITP program.

Efforts Are Still Needed to Discourage the Use of Illegal Tax Protester and Similar Designations

The IRS has not effectively instructed its employees to prevent these designations from appearing in the case narratives, which could result in biased treatment to taxpayers. In addition, we identified another 366 cases where IRS employees made comments or references to protester activities or used an obsolete ITP letter/form but did not specifically designate taxpayers as “protesters.” While these actions are not prohibited by the RRA 98, we are concerned that these references could become or be considered permanent labels that could subsequently stigmatize taxpayers in future contacts with the IRS.

Recommendations

2. IRS management should reinforce the importance that taxpayers are not to be referred to as “tax protesters,” “ITPs,” “constitutionally challenged” or any other similar designation.

Management’s Response: IRS management has requested guidance from the Office of Chief Counsel regarding similar designations. Once this issue is defined, a memorandum will be issued to all employees reinforcing the importance of not referring to taxpayers as ITPs.

3. IRS management should consult with the Office of Chief Counsel to determine the effect of these designations, if any, on taxpayers’ rights for the 303 accounts identified during this review.

Management’s Response: IRS management also stated that a requested Office of Chief Counsel opinion will address the issue of whether any taxpayers’ rights, if any, were affected by the IRS’ use of these designations. The IRS will take corrective action on this recommendation following the Chief Counsel’s opinion.

Efforts Are Still Needed to Discourage the Use of Illegal Tax Protester and Similar Designations

Appendix I

Detailed Objective, Scope, and Methodology

The objective of this review was to determine if the Internal Revenue Service (IRS) complied with the provisions of the IRS Restructuring and Reform Act of 1998 (RRA 98)¹ § 3707 and internal IRS guidelines which prohibit the designation of a taxpayer as an Illegal Tax Protester (ITP) or any similar designation. A description of IRS computer systems can be found in Appendix V. The Treasury Inspector General for Tax Administration (TIGTA) is required to annually evaluate the IRS' compliance with the prohibition against using ITP or any similar designation.² To complete this objective, we:

- I. Determined if the ITP coding on the IRS' Master File was removed by reviewing all Accelerated Issuance Codes (Transaction Code 148) as of October 2001. We reviewed 92,425 Business Master File records and 500,668 Individual Master File records. We generally relied on the TIGTA Office of Information Technology for validation of the data provided to us. However, we did a limited validation of the data by researching a judgmental sample of 39 Taxpayer Identification Numbers (TIN) on the Integrated Data Retrieval System (IDRS).
- II. Determined if the ITP coding (Project Code 085) was removed from the IRS' Audit Information Management System (AIMS) by securing and analyzing all the cases on the current AIMS database as of September 2001. We did a limited validation of the data provided to us by researching a judgmental sample of 20 TINs on the IDRS to determine examination activity.
- III. Determined if the ITP coding (Project Code 085) was removed from the IRS' Examination Returns Control System (ERCS) by securing and analyzing the current database as of October 2001. We validated the accuracy of the ERCS data obtained through information provided by the TIGTA Data Warehouse personnel.
- IV. Determined if the IRS Internal Revenue Manual (IRM) still contains ITP or any similar designation by performing key word searches in March 2002 of the Servicewide Policy, Directive, and Electronic Research; Servicewide Electronic Research Program (SERP); IRS publishing website; IRS public Internet website; CD-ROM; and paper IRMs. We specifically searched for corrections to the exceptions identified in the Fiscal Year (FY) 2001 report and determined if there were any new references.

¹ Pub. L. No. 105-206, 112 Stat. 685 (codified as amended in scattered sections of 2 U.S.C., 5 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.).

² 26 U.S.C. § 7803(d) (1998).

Efforts Are Still Needed to Discourage the Use of Illegal Tax Protester and Similar Designations

- V. Determined if IRS publications still contain ITP or any similar designation by performing key word searches of the SERP (November 2001), IRS internet public website (December 2001 and April 2002), and IRS Intranet electronic publishing website (December 2001). We specifically searched for corrections to the exceptions identified in the FY 2001 report and determined if there were any new references.
- VI. Determined if employees are using ITP or any similar designation within taxpayer case histories on the IRS' Integrated Collection System (ICS) by securing and analyzing all 24,074,226 records from the current open database as of September 2001. We performed a limited validation of the ICS data by matching the unique TIN count with the inventory count of the Collection Report NO-5000-1. Additionally, to further validate the accuracy of the data obtained, we selected a judgmental sample of TINs and matched them to the IDRS to determine if the accounts were in current collection status.
- VII. Determined if employees are using ITP or any similar designation within taxpayer case histories on the IRS' Automated Collection System (ACS) by securing and analyzing all 15,672,544 records from the current open database as of February 2002. We did not perform a detailed validation of the ACS data because this information was provided directly from the IRS through the TIGTA Data Warehouse. However, we did limited validation of the data accuracy by matching a judgmental sample of TINs to the IDRS to ensure the accounts were in current collection status.
- VIII. Determined if employees are using ITP or any similar designation within taxpayer case histories on the IRS' Taxpayer Advocate Management Information System (TAMIS) by analyzing the key word query results of 752 records (536 open TAMIS cases) provided by the Taxpayer Advocate Service (TAS). The TAS, using criteria we provided, performed queries on the TAMIS' currently inventory of cases open on December 17, 2001; January 9, 2002; and January 10, 2002. The queries resulted in 752 records (532 cases). This is a live database and the total number of records on the system at the times of the queries was not captured. We reviewed each of the 752 records through on-line analysis on the TAMIS. We did not perform a data validation of the TAMIS data because this information was provided directly from the IRS.
- IX. Determined if employees are using ITP or any similar designation within taxpayer case histories on the IRS' Appeals Consolidated Data System (ACDS) by analyzing the current database of approximately 600,000 case records as of October 2001. We did not perform a data validation of the ACDS data because this information was provided directly from the IRS through the TIGTA Data Warehouse.
- X. Determined if Examination function and Frivolous Filer Program employees are using ITP or any similar designation within paper case file histories by reviewing a judgmental sample of 534 cases currently open cases in 4 field offices and 2 campuses. A judgmental sample was selected based on the results of prior reviews. The field offices were selected based on an analysis of the ERCS (October 2001) and AIMS (September 2001) databases and the pre-

Efforts Are Still Needed to Discourage the Use of Illegal Tax Protester and Similar Designations

RRA 98 list of ITP taxpayers. By matching these databases, we determined the field offices with highest number of open cases related to the pre-RRA 98 ITP taxpayers. These cases were targeted as our primary case selections. The remaining sample cases were selected from current inventory listings provided by the office managers at the time of our visitations. We validated the ERCS and the AIMS through information provided by the TIGTA Data Warehouse personnel. We additionally performed a record count analysis and validated the existence of posting cycles consistent with October 2001 for the ERCS database. The total population was not calculated since the sample was drawn from multiple sources, a computer system of live cases and paper files, at different periods of time.

- XI. Determined if the Criminal Investigation employees are using ITP or any similar designation within paper case file histories by reviewing a judgmental sample of 98 open cases in 4 field offices as of January 2002. A judgmental sample was selected based on the results of prior reviews. We did not perform a data validation of the Criminal Investigation Management Information System (CIMIS) information, as this information was provided directly from the IRS. There was no separate analysis performed to determine the four sites visited. For logistic and travel budget reasons, we visited the same four field offices determined for the Examination function.
- XII. Consulted with the TIGTA Counsel on the correct application of the law.

In addition, there were three scope limitations that affected this year's review.

- Some Criminal Investigation cases were not available for our review because they were in Grand Jury status. Per Federal Rules of Criminal Procedure,³ case information that is in Grand Jury status cannot be disclosed. Criminal Investigation representatives stated that 160 of the 343 active cases on the CIMIS at the end of January 2002 were in Grand Jury status and could not be provided in the sites selected for our review.
- Internal data processing problems prevented us from obtaining some information on the ICS related to one processing center. As a result, our review of collection cases was limited to approximately 97 percent of the entire population of open records on ICS.
- Incompatibility issues between the IRS' and TIGTA's computer systems prevented us from directly running queries on the TAMIS. As a result, IRS employees had to execute our queries on this system and provide us with the results.

³ 18 U.S.C. § 3322 (2000).

Major Contributors to This Report

Michael R. Phillips, Assistant Inspector General for Audit (Wage and Investment Income Programs)

Augusta R. Cook, Director

Stanley C. Rinehart, Director

Bryce Kisler, Audit Manager

Alan Lund, Senior Auditor

James Traynor, Senior Auditor

Karen Fulte, Auditor

David Hartman, Auditor

Craig Pelletier, Auditor

**Efforts Are Still Needed to Discourage the Use
of Illegal Tax Protester and Similar Designations**

Appendix III

Report Distribution List

Assistant Deputy Commissioner N:ADC
Commissioner, Large and Mid-Size Business Division LM
Commissioner, Small Business/Self-Employed Division S
Commissioner, Tax Exempt and Government Entities Division T
Commissioner, Wage and Investment Division W
Deputy Commissioner for Modernization & Chief Information Officer M
Director, Strategy and Finance W:S
Chief, Appeals AP
Chief, Criminal Investigation CI
Chief, Customer Liaison S:COM
Chief Counsel CC
National Taxpayer Advocate TA
Director, Legislative Affairs CL:LA
Director, Office of Program Evaluation and Risk Analysis N:ADC:R:O
Office of Management Controls N:CFO:F:M
Audit Liaisons:
 Assistant Deputy Commissioner N:ADC
 Commissioner, Large and Mid-Size Business Division LM
 Commissioner, Small Business/Self-Employed Division S:COM
 Commissioner, Tax Exempt and Government Entities Division T
 Commissioner, Wage and Investment Division W:CAS:SP
 Deputy Commissioner for Modernization & Chief Information Officer M
 Chief, Appeals AP
 Chief Counsel CC
 Chief, Criminal Investigations CI
 National Taxpayer Advocate TA

Efforts Are Still Needed to Discourage the Use of Illegal Tax Protester and Similar Designations

Appendix IV

Outcome Measures

This appendix presents detailed information on the measurable impact that our recommended corrective actions will have on tax administration. These benefits will be incorporated into our Semiannual Report to the Congress. A description of Internal Revenue Service (IRS) computer systems can be found in Appendix V.

Type and Value of Outcome Measure:

- Taxpayer Rights and Entitlements – Potential; 303 taxpayers affected (see page 5).

Methodology Used to Measure the Reported Benefit:

We reviewed:

- On the Integrated Collection System, approximately 24 million records open as of September 2001 and identified 203 case histories that contained Illegal Tax Protester (ITP) or a similar designation.
- On the Automated Collection System, approximately 16 million records open as of February 2002 and identified 91 case histories that contained ITP or a similar designation.
- From the Taxpayer Advocate Management Information System, a total of 536 open cases selected on December 17, 2001, and January 9 and 10, 2002, and identified 5 case histories that contained ITP or a similar designation.
- On the Appeals Consolidated Data System, approximately 600,000 records as of October 2001, and identified 2 taxpayer case histories that contained ITP or a similar designation.
- From paper examination files, a total of 459 open cases selected from 6 IRS sites on January 8, 14, 28, and 30, 2002, and February 5, 12, and 19, 2002, and identified 2 case histories that contained ITP or a similar designation.

Type and Value of Outcome Measure:

- Reliability of Information – Actual; 144 Internal Revenue Manual (IRM) subsections affected (see page 3).

Methodology Used to Measure the Reported Benefit:

In March 2002, we searched various versions of the IRM available to IRS employees for ITP references. These were found on the Servicewide Policy, Directive, and Electronic Research; IRS publishing website; IRS public Internet website, *The Digital Daily*; CD-ROM; and paper.

Internal Revenue Service Computer Systems

Appeals Consolidated Data System: A computerized case control system used to control and track cases coming into and leaving Appeals.

Audit Information Management System: A computer system designed to give examination information about current returns in inventory, as well as returns that have been closed.

Automated Collection System: A computerized system that maintains balance due accounts and return delinquency investigations.

Criminal Investigation Management Information System: A database that tracks the status and progress of criminal investigations and the time expended by special agents.

Examination Returns Control System: An automated inventory management system used for controlling tax returns and technical time charges by Examination function employees.

Integrated Collection System: A system used by collection function employees to report taxpayer case time and activity.

Integrated Data Retrieval System: An Internal Revenue Service (IRS) computer system capable of retrieving or updating stored information; it works in conjunction with a taxpayer's account records.

Master File: An IRS database that stores various types of taxpayer account information. This database includes individual, business, and employee plans and exempt organizations data.

Taxpayer Advocate Management Information System: An electronic database and case inventory control system used by Taxpayer Advocate Service employees.

Efforts Are Still Needed to Discourage the Use
of Illegal Tax Protester and Similar Designations

Appendix VI

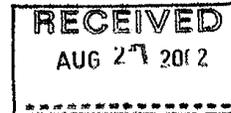
Management's Response to the Draft Report



COMMISSIONER

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

August 26, 2002



MEMORANDUM FOR TREASURY INSPECTOR GENERAL FOR TAX
ADMINISTRATION

FROM: *Acting for* Charles O. Rossotti *Bob Alenzel*
Commissioner of Internal Revenue

SUBJECT: Draft Audit Report - Efforts Are Still Needed to
Discourage the Use of Illegal Tax Protester and Similar
Designations (Audit # 200240002)

I reviewed your report, which examined our compliance with Section 3707 of the IRS Restructuring and Reform Act of 1998 (RRA 98). This section of the act prohibits the designation of taxpayers as Illegal Tax Protesters (ITP) or any similar designations.

I generally agree with your recommendations. Most employees are aware that the ITP designation is prohibited. We have stressed this prohibition in training classes, in memorandums issued from various levels of management, and in the quality review processes throughout the Service. We recognize, however, that additional guidance is needed to assist employees in determining what language represents a "similar designation". The Office of Chief Counsel is currently preparing guidance on what represents a "similar designation" to ITP. They are also looking at the impact of violations of Section 3707 on taxpayer rights. With this Chief Counsel guidance, we will be able to assist employees in eliminating the use of similar terms from all IRS documents.

Your report recognized our efforts to remove the ITP designations from all taxpayer accounts. We continue to take steps to ensure we:

- No longer establish ITP codes on Master File
- Remove ITP codes from inventory management systems
- Delete ITP references from IRS publications

As your report states, we originally expected to complete deletion of all ITP references from our Internal Revenue Manuals by January 2002. However, you found that 144 ITP references and similar designations still exist in manual references as of March 2002. We are continuing to work to delete these references; since your March 2002 review, we have eliminated all but eleven references. The remaining references will be deleted in printed and electronic copies of the IRM by March 1, 2003.

Efforts Are Still Needed to Discourage the Use of Illegal Tax Protester and Similar Designations

2

Our comments on your recommendations are as follows:

RECOMMENDATION 1

The Office of SPDER should coordinate with each IRS function to remove from or label as obsolete all remaining ITP or similar references in the IRM.

ASSESSMENT OF CAUSE

We had not updated all IRS IRMs. Because we have not completed the updates, references to ITP or similar designations still exist.

CORRECTIVE ACTION

1. A recent search of the core repository found 11 ITP references. Each Operating Division responsible for manual updates will delete these references from the IRM. The responsible divisions are listed under the "Responsible Officials" listed.
2. Servicewide Policy Directives and Electronic Research (SPDER) will continue to manage the Internal Management Documents (IMD) process by coordinating requests from the Multimedia Publishing Division to search IRM files for ITP references. If evidence of ITP references is found, SPDER will inform the appropriate operating division of the existence of the prohibited term, and monitor the removal of the term based on a timetable provided by the operating division.

IMPLEMENTATION DATE

1. March 1, 2003
2. Ongoing

RESPONSIBLE OFFICIALS

Chief, Agency Wide Shared Services
Chief, Criminal Investigation
Commissioner, Small Business/Self-Employed
Commissioner, Wage and Investment
Commissioner, Tax Exempt and Government Entities

2. Director, Research, Analysis and Statistics

CORRECTIVE ACTION MONITORING PLAN

Each Operating Division will ask SPDER for periodic runs (at least yearly) to verify that we have no ITP or similar designations included in IRMs.

Efforts Are Still Needed to Discourage the Use of Illegal Tax Protester and Similar Designations

3

RECOMMENDATION 2

IRS management should reinforce the importance that taxpayers are not to be referred to as tax protesters, ITPs, constitutionally challenged or any other similar designation.

ASSESSMENT OF CAUSE

Some employees are still using the term ITP. Chief Counsel is reviewing the similar designation issue.

CORRECTIVE ACTION

After we receive guidance from Chief Counsel about similar designations, we will issue a memorandum reinforcing the importance of not referring to taxpayers as ITPs.

RESPONSIBLE OFFICIAL

Commissioner, Small Business/Self-Employed Division

IMPLEMENTATION DATE

January 2003

CORRECTIVE ACTION MONITORING PLAN

The Director of Compliance, Small Business/Self-Employer will inform the Commissioner, Small Business/Self-Employed of any delay, change, or problem with the implementation.

RECOMMENDATION 3

IRS Management should consult with the Office of Chief Counsel to determine the effect of these designations, if any, on taxpayers' rights for the 303 accounts identified during this review.

ASSESSMENT OF CAUSE

Not Applicable

CORRECTIVE ACTION

SBSE Counsel has requested an opinion from the Office of Chief Counsel regarding the definition as used in Section 3707 of RRA 98. This opinion will also address the issue of whether any taxpayers' rights, if any, we affect by these designations. We will take action on this recommendation after we receive Chief Counsel's opinion.

RESPONSIBLE OFFICIAL

SB/SE Counsel

**Efforts Are Still Needed to Discourage the Use
of Illegal Tax Protester and Similar Designations**

4

IMPLEMENTATION DATE

October 31, 2002

CORRECTIVE ACTION MONITORING PLAN

None

If you have questions, call me at (202) 622- 9511, or Joseph Brimacombe,
Director of Compliance Policy, Small Business/Self-Employed at (202) 283-2200.