

United States Senate

WASHINGTON, DC 20510

September 24, 2002

The Honorable Charles O. Rossotti
Commissioner
Internal Revenue Service
1111 Constitution Avenue, Northwest
Washington, DC 20224

Dear Commissioner Rossotti:

The just-released Treasury Inspector General for Tax Administration (TIGTA) audit report (Reference Number: 2002-30-156), in which TIGTA concludes that Internal Revenue Service (IRS) does not penalize employers that file wage and tax statements with inaccurate Social Security Numbers (SSNs), raises several important issues.

In November of 1998, the Social Security Administration (SSA) notified the IRS that the SSA was embarking on a major initiative to increase the accuracy of its matching of SSNs with employee names. At that time, the SSA suggested to the IRS that the agencies work together to provide incentives to employers to provide accurate SSN/name combinations. The accuracy of the SSNs and employee names is important to both agencies. As you are well aware, the IRS uses the information to help identify under-reporting of income by Form 1040 filers and as a basis for generating compliance notices. Of equal significance, the SSA uses the information to determine eligibility for and the calculation of Social Security benefits.

We believe both of these goals to be important. Much to our dismay, however, the TIGTA report reveals that even when presented with two lists, one for tax year (TY) 1997 and one for TY 1998, of employers with the most egregious record of non-compliance, the IRS failed to make a determination as to whether penalties should be assessed. These lists include nearly 100 large employers in each year, employers responsible for filing some 867,000 incorrect Forms W-2.

According to TIGTA, the IRS could have proposed penalties of between \$26 million and \$30 million. Notwithstanding the fact that the IRS waives penalties in cases in which employers can demonstrate reasonable cause for failing to meet these filing requirements (e.g., incorrect information from employees), the IRS still appears to have missed an opportunity to collect millions of dollars in penalties. More importantly, the agency has missed significant opportunities to deter noncompliance, since these large employers have arguably continued to file incorrect wage and tax statements after TY 1997 and TY 1998. Furthermore, failure to correct this information subjects

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individual taxpayers to needless aggravation – namely receiving unnecessary (and unnerving) notices from the IRS concerning the mismatch of their names and SSNs as well as miscalculated or even denial of Social Security benefits.

We are pleased that the IRS has agreed to the TIGTA recommendations and will work with the SSA to initiate a program for managing the accuracy of wage and tax information returns and to assess, where justified, penalties for the most egregious noncompliant employers. While we strongly support these efforts, we urge you to take special care with respect to small businesses when implementing this new program. Small businesses often find themselves unduly burdened when forced to comply with programmatic requirements designed for large businesses. Please keep small business taxpayers in mind as you undertake education and outreach opportunities to implement this program.

Thank you for your attention to this matter. We appreciate the actions your agency has promised to take with respect to the TIGTA report and look forward to reviewing the results. If you have any questions or need additional information, please feel free to contact either of us or have your staff contact Dean Zerbe, Republican Tax Counsel to the Finance Committee, at 224- , or Mark Warren, Republican Tax Counsel to the Small Business Committee, at 224- .



Christopher S. Bond
Ranking Member
Committee on Small Business
and Entrepreneurship

Sincerely,



Charles E. Grassley
Ranking Member
Committee on Finance

cc: The Honorable Jo Anne Barnhart
Pamela Gardiner