



COMMISSIONER

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

February 11, 2013

The Honorable Charles Grassley
United States Senate
Washington, DC 20510

Dear Senator Grassley:

I am responding to your letter of January 28, 2013, to Acting Secretary Wolin, Assistant Secretary Mazur and me in which you reiterated your concerns regarding the interpretation of 26 USC 7623 and certain positions taken in the proposed regulations released for public comment on December 18, 2012.

I understand and respect your strong interest in the success of the IRS whistleblower program and appreciate your leadership in the 2006 amendments to section 7623. As I hope you know, I share your view that this program can make important contributions to tax administration, and we have made significant progress in implementing the law. While the number of awards paid to date under section 7623(b) is relatively small, I believe the pace of payments does not reflect the commitment to the whistleblower program and that the pace will increase as ongoing examinations are concluded.

The IRS and Treasury have sought to interpret the law in a way that effectuates the intent of the program. The proposed regulations are intended to define relevant terms and allow disclosure of information to the extent the law permits and in a manner that is administratively feasible. We have also sought to be transparent with stakeholders in setting out our positions on these issues in previous regulations defining "collected proceeds" and setting a framework for contracts under section 6103(n), in published Chief Counsel advice, and in annual reports on the whistleblower program. We welcome the opportunity for dialog on statutory changes that could be made to provide legal authority for some of the changes you have suggested.

Your letter addresses a number of issues covered in the proposed regulations. At present, the public comment period for the proposed regulations is still open, and we expect to receive additional comment letters before it closes. In addition, although no commenter has yet requested to speak at a public hearing on the proposed regulations, it is our expectation that will happen and that a public hearing will be scheduled after the close of the comment period. The IRS and Treasury will carefully consider all comments submitted on the proposed regulations and all statements made at a public hearing in developing the final regulations. Because the comment period is still open, it would be inappropriate to respond to specific comments received on the proposed

regulations thus far or to describe possible modifications to the final regulations. As always, we welcome your views, and will carefully consider all the issues you raised as we finalize the regulations.

Our staff is available to meet with your staff to discuss any matter surrounding the regulatory process and your views on these issues either in the near future or after we have received comments on the regulations from the public. And, of course, I remain available to meet with you at any time.

You inquired about the status of the Whistleblower Office Annual Report for Fiscal Year (FY) 2012. The report was released on February 11, 2013. The report includes the information included in Table 3 of the GAO report that you referenced in your letter. With respect to the information in Table 4 of the GAO report, information system changes in the summer of 2012 included new data collection on reasons for claim closure as well as the stage in the process when the relevant determination is made. This will allow us to have accurate information on closures as we move forward. While we have been able to improve the data on an ongoing basis, the Whistleblower Office has not updated the records on cases closed before the system changes, and thus did not have significant data on closures to include in the FY 2012 Annual Report.

You asked for a month-by-month report on the staffing level of the Whistleblower Office. The attached chart provides that data as reported in Whistleblower Office budget documents. The Whistleblower Office also is in the process of hiring additional staff.

You also asked for information on implementation of recommendations contained in an August 2011 GAO report. As you are aware, we have completed several information reporting improvements to allow us to provide more accurate information on an ongoing basis. Seven of the recommendations related to improvements in data collection and reporting, including follow-up on claims that remain in Operating Division Subject Matter Expert (SME) review for more than a specified number of days. Changes in the information system to collect additional data have been made, and the Operating Divisions and the Whistleblower Office now provide me with reports on claims that have been in SME review status for more than 90 days. The final GAO recommendation was to amend the claim submission form to solicit information on four specific questions. When the information is not provided by the whistleblower with the initial submission, it is typically obtained by the Whistleblower Office or the Operating Division SME during the evaluation of the submission. The form and accompanying instructions will be revised as part of a redesign of the claim intake process to be implemented later this year.

I hope that this information is helpful, and, as mentioned, the IRS staff continues to be available to meet with you and your staff on questions related to the whistleblower program. If you have additional questions, please contact me, or have your staff contact Catherine Barré, Director, Legislative Affairs, at (202) 622-3720.

Sincerely,



Steven T. Miller
Acting Commissioner

Attachment

Whistleblower On-Roll Data By Month Since Standup in FY 2007¹

Month	FY 2007 On-Roll	FY 2008 On-Roll	FY 2009 On-Roll	FY 2010 On-Roll	FY 2011 On-Roll	FY 2012 On-Roll	FY 2013 On-Roll
October		5	9	16	17	18	36
November		5	10	17	17	18	36
December		5	10	17	17	18	36
January	0	8	10	17	18	33 ²	36
February	0	8	10	17	18	33	
March	0	8	10	17	18	32	
April	0	8	10	17	20	32	
May	0	8	10	17	20	37	
June	0	8	10	17	20	37	
July	2	8	11	17	20	37	
August	4	8	12	17	20	37	
September	5	8	14	17	20	37	

¹ This table is based on data in the IRS budget system. There was no account for the Whistleblower Office in the FY 2007 budget, because the law directing that the office be established was enacted after the start of that fiscal year. Staff members were informally assigned, and paid out of other accounts, until a separate account could be established for the Whistleblower Office in the fourth quarter. Other short term assignments to the Whistleblower Office were funded by the Operating Divisions at various times, and are not recorded in the Whistleblower Office account.

² Staff from the SBSE Informant Claims Examination Unit was realigned to the Whistleblower Office in January 2012.