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IRS To Whistleblowers: “Thanks, But We’re Withholding!”

There’s been lots of press lately about how the IRS is paying for information. In fact, the entire Swiss banking industry was literally brought to its knees because of a whistleblower. See [Swiss Bank Leaker Found Guilty](#). OK, he went to jail, but he still expects to receive a nice chunk of change for all the tax dollars his actions are bringing into Treasury Department coffers. See [Tax Informants Are On The Loose](#).

While it’s true that the IRS’s litigation efforts and [voluntary disclosure programs](#) have played big parts in encouraging U.S. taxpayers to become compliant, there’s no doubt tax whistleblowing played a huge part. See [Tax Amnesty: IRS Voluntary Disclosure Part Deux](#). Looking beyond the foreign banking controversy, there’s no doubt there will be many big tax collections traceable to the actions of whistleblowers. We live in an information age, and paying for it is becoming the norm.

We have the Federal False Claims Act and many other federal and state whistleblower laws. It surprises many people that the Federal False Claims Act actually dates to the Civil War! See [Capital Gain for Relators Under the False Claims Act](#). Even tax whistleblowing is not a recent phenomenon. There’s long been an IRS program to pay for information about tax cheats.

In fact, check out this IRS history of whistleblowing incentives starting in 1867! See [History of the Whistleblower/Informant Program](#). Big changes came in 2006, and these changes in the law raised the stakes

materially. The key change was the addition of a new [Section 7623\(b\)](#), under which awards to tax whistleblowers are no longer discretionary.

The new law says that the whistleblower “shall” receive 15 to 30 percent of the collected proceeds. That’s **shall**, not **may**. Procedural safeguards were added too. The 2006 law added whistleblower appeal rights. The IRS was even required to create a [Whistleblower Office](#) reporting to the Commissioner to implement the law. See [Whistleblower/Informant Award](#).

Since then a [cottage industry](#) of tax whistleblowers and their lawyers and advisers has sprung up. Although there was a long dry spell, the [first award](#) was recently paid. See [IRS Pays First Enhanced Whistleblower Award](#). That was good news for many tax whistleblowers becoming tired of IRS delays.

Yet lately there are some unhappy campers in tax whistleblower land. Why? The IRS announced that it intends to withhold taxes from the whistleblower award payments it makes! See IRS [PTMA 2010-063](#) and [PTMA 2011-01](#).

Of course, there’s no question that a whistleblower receiving an award will have to pay tax on it. With only limited exceptions, our tax system taxes all income from whatever source derived. But the details involve timing, mechanics—and some tax whistleblowers might say, trust!

Some have cried foul to the IRS withholding missive, noting that these aren’t wage payments or any other type of payment requiring withholding. The question is whether the IRS has the **authority** to do this. The IRS defends its withholding decision by noting that some of these payments will be large and may go to foreigners. Sure, there may be no statutory mandate to withhold on whistleblower payments, but there’s no **prohibition** on doing so either, the IRS notes. See IRS [Notice 92-6](#) and [Section 3406](#).

For more, see:

[IRS Withholding on Whistleblower Awards Ignites Controversy](#)

[IRS Notice 2008-4](#)

[Rat out your boss, get paid by the IRS](#)

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