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Ignoring 83% Of Payroll Tax Mismatches, IRS Leaves \$7 Billion Uncollected...Until Now

The IRS is well-known for information matching. Take IRS Form 1099. It is common knowledge that if you fail to account for income reported on a Form 1099-MISC, you will receive an IRS notice asking why, or even proposing a tax bill. You might reasonably assume that employment taxes would be *even more* cross-checked. For example, the IRS's Combined Annual Wage Reporting (CAWR) Program compares: (1) the employee wage and withholding information reported to the IRS on employment tax forms; to (2) withholding documents filed with the Social Security Administration. The purpose of the IRS-CAWR Program is to ensure that employers report the proper amount of employment taxes and Federal income tax withholding on their employment tax returns.



However, it appears not to be working so well. The Treasury Inspector General for Tax Administration (TIGTA) recently evaluated whether the IRS-CAWR Program's document matching process accurately identifies and selects the most productive cases. You can [read the report](#) in full. Unfortunately, the resulting

report says that billions of dollars of underreported taxes from employers are not being addressed. Most discrepancies are simply not being worked by the IRS, the

report reveals. The report's analysis of 137,272 Tax Year (TY) 2013 discrepancy cases found that the IRS worked only 23,184 (17 percent) cases. The remaining 114,088 (83 percent) discrepancy cases were not worked, and they had a potential underreported tax difference of more than \$7 billion.

The report also says that discrepancy case selection processes do not ensure that priority is given to working discrepancy cases with the highest potential tax assessment. TIGTA analyzed the 114,088 discrepancy cases that were not worked to identify those 23,184 with the highest potential underreported tax amounts by case type. It turned out that these had total potential underreported tax of more than \$6.8 billion. Furthermore, TIGTA's analysis of the 114,088 TY 2013 unworked IRS-CAWR discrepancy cases showed that if the IRS had selected the 23,184 auto-generated cases with a higher average assessment potential to work, it would have selected cases with more than \$128 million in assessment potential.

In addition to changing its selection methodology to work case types with the highest potential tax assessment, the IRS could further increase its return on investment by including prior year discrepancy cases when working current year discrepancy cases for the same employer. TIGTA's analysis found that 3,137 of the discrepancy cases identified in TY 2013 also had discrepancy cases in TY 2012, with potential underreported tax totaling more than \$448 million for TY 2012.

TIGTA recommended that the IRS Commissioner, Small Business/Self-Employed Division, evaluate the current agreement and workload processes with the Social Security Administration, as required, to determine if changes could be made; revise its case selection criteria to include auto-generated cases with the highest potential tax assessment; coordinate with the Information Technology organization to review and prioritize programming enhancements; and take actions necessary to implement the proposed upgrade to include prior year discrepancy cases when current year discrepancy cases are selected for the same employer.

The IRS agreed with six of seven recommendations. IRS management did not agree to include prior year discrepancy cases when current year discrepancy cases are selected for the same employer. However, it will consider employers that have a prior year discrepancy case as part of the selection criterion for current year cases. Will there be enhanced payroll tax enforcement? Yes, that is a safe assumption, both civilly, and criminally. At a minimum, the potential of [5 year prison terms over payroll taxes should warn employers about the IRS.](#)

For alerts to future tax articles, email me at Wood@WoodLLP.com. This discussion is not legal advice.