

MARCH 9, 2015

2014 Whistleblower Statistics Will Mirror Past Reports

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Summary by **taxanalysts**[®]

The number of whistleblower cases and awards handled by the IRS in fiscal 2014 is consistent with those of previous years, an IRS official said March 6, previewing the yet-to-be-released 2014 IRS Whistleblower Office report to Congress.

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The number of whistleblower cases and awards handled by the IRS in fiscal 2014 is consistent with those of previous years, an IRS official said March 6, previewing the yet-to-be-released 2014 IRS Whistleblower Office report to Congress.

"On a general level, in terms of the number of submissions, the number of claims that result from those submissions, and the amounts that have been paid are going to be similar . . . to the 2013 report," Kevin Gillin, special counsel to the IRS Office of Chief Counsel (Small Business/Self-Employed), said at the Federal Bar Association Section on Taxation annual tax law meeting in Washington.

According to the fiscal 2013 report , the IRS paid out \$53 million in 2013 on 122 separate awards, of which only six were on collections over \$2 million. The amount of awards paid as a percentage of the amount collected fell to 14.6 percent in 2013, the lowest rate since 2010.

The 2014 report doesn't identify the number of good cases the IRS is getting, Scott A. Knott of the Ferraro Law Firm said, adding that he believes that the number of good cases has been steady. He defined good cases as those that are technically sound and don't face limitations on collection or evidentiary issues.

Robert Wearing, branch chief, IRS Office of Chief Counsel (Procedure and Administration), acknowledged the frustration among whistleblowers waiting for litigation from the Tax Court.

"We've seen the Tax Court be very methodical," Wearing said, noting several recent opinions issued on jurisdiction, including *Lippolis v. Commissioner*, 143 T.C. No. 20 (2014) ; *Ringo v. Commissioner*, 143 T.C. No. 15 (2014) ; and *Comparini v. Commissioner*, 143 T.C. No. 14

(2014) . (Prior coverage  and .)

In *Lippolis*, the Tax Court denied the IRS's motion to dismiss a whistleblower case, holding that the \$2 million threshold in [section 7623\(b\)\(5\)\(B\)](#) isn't jurisdictional. In *Ringo*, the Tax Court held that it has jurisdiction over an individual's petition for review of the IRS's decision denying a whistleblower award claim, finding that the court's jurisdiction was controlled by the IRS's determination letter and that the Service couldn't deprive the court of jurisdiction by revoking the determination letter. In *Comparini*, the Tax Court held that it has jurisdiction over a couple's petition for review of the IRS's denial of their whistleblower award claim, finding that the Service's denial letter qualified as a determination under [section 7623\(b\)\(4\)](#), which resulted in the couple's petition being timely filed.

"Now we see the court moving toward standard of review . . . we're not really yet at the point of substantive fights over the meaning of terms in [section] 7623 or whether the award was an appropriate amount," Wearing said.

Noting both the *de novo* standard of review for a deficiency action and the abuse of discretion standard for collection due process cases, Knott said that while earlier cases from the Tax Court showed a willingness to look into the facts of a whistleblower case *de novo*, the standard of review remained unresolved in that context.

Tax Analysts Information

Code Section: Section 7623 -- Expenses of Detecting Frauds

Jurisdiction: United States

Subject Areas: Fraud, civil and criminal
Practice and procedure
Tax system administration

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Tax Analysts Document Number: Doc 2015-5662

Tax Analysts Electronic Citation: 2015 TNT 45-13
