

IRS Whistleblower Program Faulted

By LAURA SAUNDERS

A report on the federal-tax whistleblower initiative echoes criticisms that the program is slow, inefficient and difficult for citizens to navigate.

In a report released Friday, the U.S. Government Accountability Office said the Internal Revenue Service's expanded whistleblower program needs improvement. "Incomplete data hinders the IRS's ability to manage claim processing time and enhance external communication," the report said.

The study examined the large-award tax whistleblower program, enacted by Congress in 2006. The program applies to cases involving more than \$2 million of tax cheating by corporations or individuals.

Qualified whistleblowers collect an award of 15% to 30% of the IRS's proceeds, far more than in cases involving less than \$2 million. Informants also have the right to appeal awards to Tax Court. (The program was the subject of a Weekend Investor article on Sept. 3.)

The report recommended that the IRS change how it tracks cases and discloses information to Congress about the program.

IRS Deputy Commissioner Steven Miller said in a letter to the GAO that the agency "generally agrees" with the recommendations, but noted the agency must follow legal requirements protecting taxpayer rights to due process and privacy, both of which take "significant time."

An IRS spokesman declined to comment beyond Mr. Miller's letter.

Sen. Charles Grassley (R., Iowa), who sponsored the expanded whistleblower program and requested the GAO report, said it "makes clear that the whistleblower program has been a success in providing good information to the IRS about big-dollar tax cheating."

But, he added, "I'm concerned that the IRS management might have too many opportunities to say 'no' to a whistleblower, even when the whistleblower office believes a claim has merit."

The GAO study provided more details on the number and progress of cases than the IRS did in its latest whistleblower report to Congress in July.

According to the GAO, as of April 2011 the IRS had received claims involving more than 9,500 taxpayers from about 1,400 whistleblowers since the large-award program began. (Some whistleblower cases involve multiple taxpayers, such as a tax shelter.)

The IRS has rejected about 1,300 of the total claims, while another 245 claims appear to be near completion.

Experts say at least one award and perhaps others have been paid in the new program, but the IRS won't release overall data on large awards until next summer. Because of concerns about taxpayer privacy, the IRS doesn't announce the payment of individual awards.

In April, lawyer Eric Young of Egan Young in Blue Bell, Pa., said one of his clients won a \$4.5 million award in a tax case. He declined to identify the man, though Mr. Young said he was a retired accountant for a large financial-services firm.

The GAO report also noted that whistleblower cases take years to complete. Two-thirds of claims submitted in fiscal 2007 and 2008 were still open as of April, the GAO said.

Lawyers express frustration at the slow pace of cases. "The IRS shouldn't take three years to determine if a case could be valid," said Gregory Lynam of the Ferraro Law Firm in Washington, who adds that more than 200 whistleblower cases more than two years old appear not to have made it beyond the initial stages.

The Ferraro law firm is representing whistleblowers with claims involving \$98.6 billion of unpaid tax, with one claim alone involving more than \$10 billion.

Mr. Lynam and other critics also question how the IRS applies stringent taxpayer privacy rules, which make it a felony to disclose taxpayer information. He noted the IRS may invoke a special exception to obtain more details from a whistleblower, especially if the taxpayer is providing false information, but it hasn't done so yet.

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