Congress of the United States
Washington, DC 20515

February 15, 2018

The Honorable David Kautter
Acting Commissioner
Internal Revenue Service
1111 Constitution Avenue, NW
Washington, D.C. 20224

Dear Acting Commissioner Kautter:

On February 15, 2018, the Treasury Inspector General for Tax Administration (TIGTA) published a report assessing the Internal Revenue Service's (IRS) implementation of screening procedures for employees with conduct or tax compliance concerns when issuing awards. This report serves as a follow-up to TIGTA's March 2014 report,[1] which found the IRS generally did not consider Federal tax compliance or other misconduct when issuing these awards. TIGTA found the IRS's new process for preventing employees with conduct or tax compliance issues from receiving awards fails to adequately ensure these employees do not receive awards. We therefore write today to urge the IRS to fully implement all of TIGTA's recommendations immediately.

According to IRS data, in Fiscal Years (FY) 2016 and 2017, the IRS disbursed almost $1.8 million in awards to 1,962 employees who, despite having been disciplined for a conduct or tax compliance issues, were not captured by the IRS's new screening process. Furthermore, TIGTA found that some employees who were previously identified as having received awards in spite of conduct or tax compliance issues in TIGTA's March 2014 report, received an additional $200,000 in awards in FYs 2016 and 2017, after having again exhibited additional misconduct or tax non-compliance during that period.

Both Treasury Department policy and the Consolidated Appropriations Acts of 2016 and 2017 are clear on this matter – the IRS must consider all misconduct, discipline, and tax non-compliance during the relevant performance year when determining whether to issue an award.[2] However, TIGTA concluded that the IRS's current screening procedures do not fully comply with the requirements set forth by the Treasury Department or the Consolidated Appropriations Acts of 2016 and 2017. To address these deficiencies, TIGTA recommended that the IRS expand its misconduct screening to consider employees with any level of disciplinary action and to examine the Federal tax compliance status of all employees before issuing awards.

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[1] TIGTA, Report No. 2014-10-007, *The Awards Program Complied With Federal Requirements, But Some Employees With Tax and Conduct Issues Received Awards* (Mar. 2014).
[2] Treasury policy also allows the IRS to hold the award in abeyance pending the outcome of an ongoing investigation.

However, in lieu of immediately implementing any of TIGTA's recommendations, the IRS has offered to assess the resource needs and timeline to integrate the necessary corrections for the screening of all disciplinary actions; an assessment that is not expected to be completed until January of 2019, nearly a year from now. Given that this is the second time TIGTA has raised concerns about the IRS awards process for employees with conduct or tax compliance issues and that Treasury and Congress have both laid out clear expectations, we strongly believe that an assessment of resource needs and timeline to implement the recommendations will delay solving this very real and pressing problem.

Awards are intended to reward the best among the Federal workforce, not the worst. And yet, we see example after example of awards given to IRS employees engaging in clear misconduct, including unauthorized access of tax return information, possession of illegal drugs, and sexual harassment in the workplace. Given the importance of the IRS's mission, the IRS must seek to eliminate to the degree possible misconduct and tax non-compliance within its own workforce; and when it does occur, the IRS must do everything within its power to ensure employees are not rewarded for it. Therefore, we again want to reiterate that Congress has been very clear on this issue. The requirements to consider all employee misconduct and tax non-compliance when making awards are not optional and we strongly urge the IRS to implement TIGTA's recommendations immediately.

Thank you in advance for your prompt action to this request. If you have any questions or concerns, please contact Christopher Armstrong or Dan Burd of the Senate Finance Committee at (202) 224-4515 or Lindsay Steward of the House Ways and Means Committee at (202) 225-9263.

Sincerely,

Orrin G. Hatch
Chairman
Senate Finance Committee

Kevin Brady
Chairman
House Committee on Ways and Means