Fiscal Year 2024 Statutory Audit of Compliance With Legal Guidelines Restricting the Use of Records of Tax Enforcement Results

September 23, 2024

Report Number: 2024-300-061

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HIGHLIGHTS: Fiscal Year 2024 Statutory Audit of Compliance With Legal Guidelines Restricting the Use of Records of Tax Enforcement Results

Final Audit Report issued on September 23, 2024 **Report Number 2024-300-061**

Why TIGTA Did This Audit

TIGTA is required under Internal Revenue Code § 7803(d)(1) to annually determine whether the IRS complied with restrictions on the use of enforcement statistics to evaluate employees as set forth in Section 1204 of the IRS Restructuring and Reform Act of 1998 (RRA 98).

Impact on Tax Administration

RRA 98 § 1204(a) requires the IRS to ensure that managers do not evaluate enforcement employees using any record of tax enforcement results (ROTER) or base employee successes on meeting ROTER goals or quotas. A tax enforcement result is the outcome produced by an IRS employee's exercise of judgment in recommending or determining whether or how the IRS should pursue enforcement of the tax laws. The IRS defines ROTERs as data, statistics, compilations of information, or other numerical or quantitative recording of the tax enforcement result reached in one or more cases.

Additionally, RRA 98 § 1204(b) requires all IRS employees to be evaluated using the fair and equitable treatment of taxpayers as a performance standard and RRA 98 § 1204(c) requires each appropriate supervisor to perform a quarterly self-certification of whether ROTERs, production quotas, or goals were used in a prohibited manner. The use of ROTERs to manage IRS employees is unlawful and may create the misperception that safeguarding taxpayer rights is secondary to IRS enforcement results.

What TIGTA Found

TIGTA found instances of noncompliance with RRA 98 § 1204 requirements. Our review identified instances of noncompliance with each of the following subsections of the law:

- Section 1204(a) – seven violations associated with the use of ROTERs during our review of employees' performance evaluations in the Wage and Investment Division. The IRS also self-reported 14 violations of Section 1204(a) in multiple IRS business units.
- Section 1204(b) – 30 instances of noncompliance in the Large Business and International and Wage and Investment Divisions in which IRS management failed to either maintain the retention standard documentation or ensure that it was appropriately signed.
- Section 1204(c) – 28 managers who did not complete at least one Fiscal Year 2023 quarterly certification in multiple IRS business units.

In addition, TIGTA identified six self-assessments containing high-risk terms and phrases, and Section 1204 and non-Section 1204 employees are not consistently designated in the human resource system. Further, 34 Section 1204 employees failed to complete the Section 1204 training in Fiscal Year 2023.

What TIGTA Recommended

TIGTA made six recommendations in this report. Among these were that the IRS discuss the violations and noncompliance identified by TIGTA with responsible managers and employees to ensure that they understand RRA 98 § 1204 guidelines. In addition, implement corrective actions to ensure that quarterly certifications are automatically routed appropriately when additional information reporting is required. Finally, the IRS should perform an annual reconciliation to ensure that all required employees are accounted for and assigned the yearly Section 1204 mandatory briefing.

IRS management agreed with all six recommendations and plans to discuss section 1204(a) violations, self-assessment noncompliance, and 1204(b) noncompliance with the responsible individuals, review section 1204(c) noncompliance and determine if subsequent reporting is needed. In addition, the IRS plans to implement an interim solution for reporting potential ROTER violations and perform an annual reconciliation of the section 1204 indicator status for the annual mandatory briefing.

TREASURY INSPECTOR GENERAL
FOR TAX ADMINISTRATION

U.S. DEPARTMENT OF THE TREASURY

WASHINGTON, D.C. 20024

September 23, 2024

MEMORANDUM FOR: COMMISSIONER OF INTERNAL REVENUE

FROM: Danny R. Verneuille
Acting Deputy Inspector General for Audit

SUBJECT: Final Audit Report – Fiscal Year 2024 Statutory Audit of Compliance With Legal Guidelines Restricting the Use of Records of Tax Enforcement Results (Audit No.: 2024300007)

This report presents the results of our review to determine whether the Internal Revenue Service (IRS) complied with restrictions on the use of enforcement statistics to evaluate employees as set forth in the Restructuring and Reform Act of 1998 (RRA 98) § 1204. The Treasury Inspector General for Tax Administration is required under Internal Revenue Code § 7803(d)(1) to annually evaluate the IRS's compliance with the provisions of RRA 98 § 1204. RRA 98 requires the IRS to ensure that managers do not evaluate enforcement employees using any record of tax enforcement results or base employee successes on meeting record of tax enforcement goals or quotas. This review is part of our Fiscal Year 2024 Annual Audit Plan and addresses the major management and performance challenge of *Tax Compliance and Enforcement*.

Management's complete response to the draft report is included as Appendix II. If you have any questions, please contact me or Frank O'Connor, Acting Assistant Inspector General for Audit (Compliance and Enforcement Operations).

Table of Contents

Appendices

Background

Our system of taxation is dependent on taxpayers' belief that the tax laws apply to everyone and that the Internal Revenue Service (IRS) respects and protects their rights under the law. The IRS Restructuring and Reform Act of 1998 (RRA 98) was signed into law on July 22, 1998, to ensure that this standard is upheld.[1] RRA 98 § 1204 was written to ensure that IRS employee decisions on taxpayer cases are based on the facts and circumstances of their situation and not indicative of the IRS trying to meet any statistical goal. RRA 98 §§ 1204(a) and (c) pertain to employees who exercise judgement in recommending or determining whether or how the IRS should pursue tax law enforcement or an employee who provides direction or guidance for field programs involving Section 1204 work activities.[2] RRA 98 § 1204(b) generally applies to all IRS employees and requires them to be evaluated using a standard of "fair and equitable treatment of taxpayers." Figure 1 provides the topics of RRA 98 §§ 1204(a), (b), and (c).

Figure 1: RRA 98 § 1204

Source: RRA 98 § 1204.

A Section 1204 manager is any manager who has a Section 1204 employee fall within their reporting structure, *e.g.*, front-line managers, senior managers, and senior leaders. Section 1204 employees exercise judgment in their work to make decisions about whether or how the IRS should pursue enforcement of the tax law, as well as determining the taxpayer's tax liability or ability to pay. Examples of judgments include, but are not limited to:

- Determinations to conduct a seizure.
- Determinations to file a lien.
- Decisions to disallow an unsupported itemized deduction.

A tax enforcement result is the outcome produced by an IRS employee's exercise of judgment in recommending or determining whether or how the IRS should pursue enforcement of the tax laws. Examples of outcomes of an employees' work that are considered tax enforcement results are:

- Taxes assessed.

[1] Pub. L. No. 105-206, 112 Stat. 685 (codified as amended in scattered sections of 2, 5, 16, 19, 22, 23, 26, 31, 38, and 49 U.S.C.).

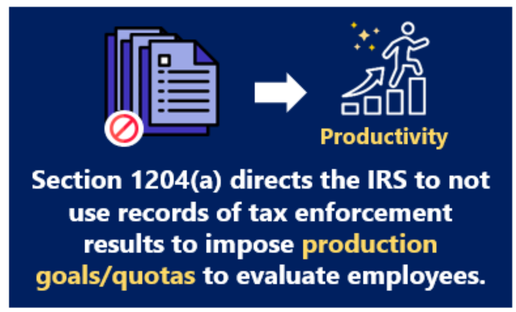
[2] When the IRS uses the term "Section 1204," it is referring to the obligations relating to employees engaging in enforcement activities under RRA 98 §§ 1204(a) and (c).

- Taxes collected.
- Fraud referral.
- Abatement case closure.
- Prosecution.

Records of tax enforcement results (ROTER) measure the outcome of the tax enforcement result reached in one or more cases. The IRS defines ROTERs as data, statistics, compilations of information, or other numerical or quantitative recording of the tax enforcement result reached in one or more cases. Examples of ROTERs include the amount of dollars collected or assessed, the number of fraud referrals made, and the number of seizures conducted.

RRA 98 § 1204(a)

RRA 98 § 1204(a) restricts the use of enforcement statistics and prohibits the IRS from using any ROTER to evaluate employees, or to impose or suggest enforcement-related production quotas or goals. For example, a manager may not suggest an enforcement-related production quota or goal to a Section 1204 employee because that is considered an RRA 98 § 1204(a) violation and an example of an outcome and not a process. A ROTER does not include evaluating an individual case to determine whether an employee exercised appropriate judgment in pursuing enforcement of the tax laws. Examples of what is allowable in the evaluation of a Section 1204 employee are:

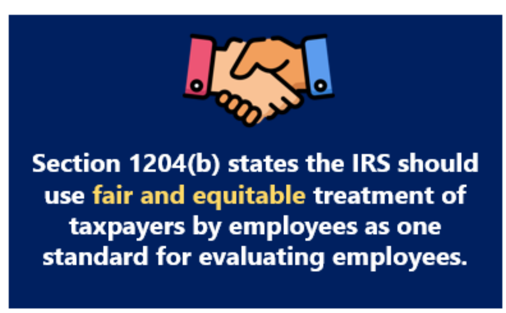


- Leadership can set quality and quantity goals but only evaluate employees on critical job elements, not on achieving a numerical goal.
- A phrase referring to a tax enforcement result that focuses on the process rather than the outcome is acceptable.
    - Examples: process to determine penalty, process to identify fraud, process to prepare and issue summons, or process to determine whether a preparer referral is appropriate.

The use of ROTERs to manage IRS employees violates RRA 98 and may create the misperception that safeguarding taxpayer rights is secondary to IRS enforcement results.

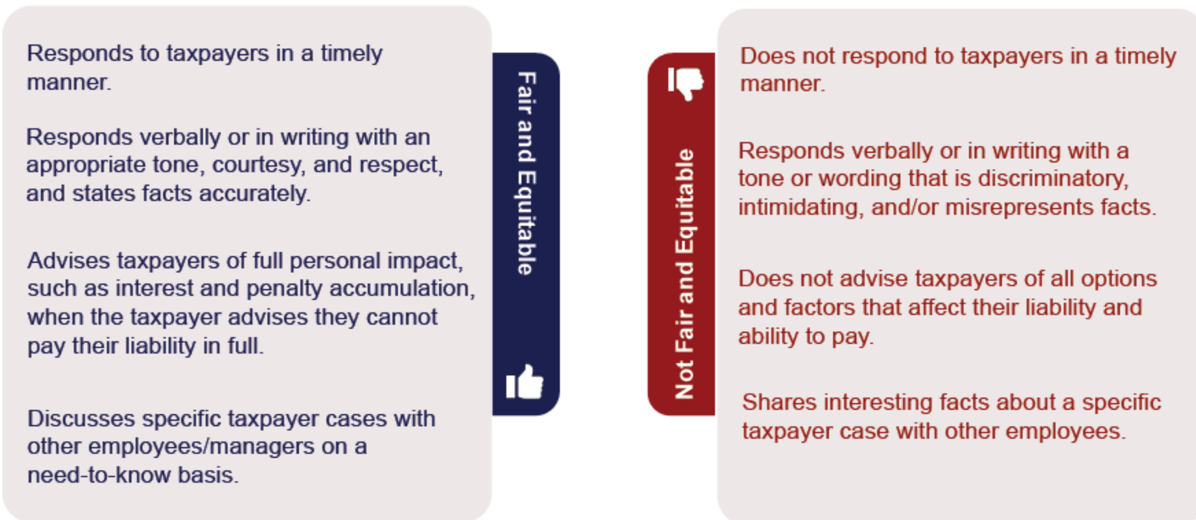
RRA 98 § 1204(b)

RRA 98 § 1204(b) requires all IRS employees to be evaluated using the fair and equitable treatment of taxpayers as a performance standard. The IRS refers to this standard as the retention standard. This provision of the law was enacted to provide assurance that employee performance is focused on providing quality service to taxpayers instead of achieving



enforcement results. Figure 2 provides a contrast of what is and is not fair and equitable treatment of taxpayers by employees.

Figure 2: Behaviors That Illustrate When Employees Treat Taxpayers Fairly and Equitably



Source: IRS Fiscal Year (FY) 2023 RRA 98 § 1204 Mandatory Briefing.[3]

RRA 98 §1204(b) requires that managers talk to their employees about the standard for the fair and equitable treatment of taxpayers at the beginning of their performance rating period and the employee and manager are required to acknowledge the retention standard by signing the applicable form (hereinafter referred to as the retention standard documentation).[4] Managers are also required to consider this standard on the employee's annual appraisal. Ultimately, the standard requires employees to administer the tax laws fairly and equitably; protect all taxpayers' rights; and treat each taxpayer ethically with honesty, integrity, and respect.

RRA 98 § 1204(c)

Section 1204(c) requires supervisors to certify quarterly by letter to the Commissioner of the IRS whether tax enforcement results are being used in a manner prohibited by RRA § 1204(a).

RRA 98 § 1204(c) requires each appropriate supervisor to perform a quarterly self-certification (hereafter referred to as certification). In the certification, the appropriate supervisor attests to whether ROTERs, production quotas, or goals were used in a prohibited manner. The IRS defines an appropriate supervisor as the highest-ranking executive in a distinct organizational unit who supervises directly or indirectly one or more Section 1204(a) enforcement employee(s). Current IRS procedures require each level of

[3] See Appendix III for a glossary of terms.

[4] The appropriate documents for the receipt of the retention standard are Form 6774, *Receipt of Critical Job Elements and Fair and Equitable Treatment of Taxpayers Retention Standard*; Form 12450-A, *Management Performance Agreement;* Form 12450-B, *Management Official Performance Agreement;* Form 12450-D, *Management/Program Analyst Performance Agreement*, or SES Performance Management System, *Executive Performance Agreement*.

management, beginning with first-line managers of Section 1204 employees, to self-certify that they have not used ROTERs in a manner prohibited by RRA 98 § 1204(a). In FY 2021, the IRS required all Section 1204 managers to begin using the automated Integrated Talent Management (ITM) system to complete the quarterly certification process. Section 1204 program managers and program coordinators in each business organization are available to provide guidance to managers regarding RRA § 1204 issues, including the certification process.[5]

Internal Revenue Code § 7803(d)(1) requires the Treasury Inspector General for Tax Administration (TIGTA) to determine annually whether the IRS is in compliance with restrictions on the use of enforcement statistics under RRA 98 § 1204.[6] TIGTA has previously performed 25 annual reviews to meet this requirement.

Figure 3 identifies the number of ROTER violations identified in IRS compliance reviews during FYs 2020 through 2022.

Figure 3: Number of Section 1204 Violations Identified in FYs 2020 Through 2022

Type of Violations	FY		
	2020	2021	2022
Section 1204(a) - ROTERs	4	12	13
Section 1204(b) - Retention Standard	6	12	14
Section 1204(c) - Quarterly Certification	N/A[7]	N/A[8]	25
Totals	**10**	**24**	**52**

Source: Analysis of data from TIGTA reports for FYs 2020 through 2022 (reports issued in FYs 2021 through 2023).

In FY 2020, we identified four RRA 98 § 1204(a) violations. This number rose to 12 violations in FY 2021 and increased to 13 violations in FY 2022, all involving ROTERs in employee evaluations. TIGTA noted RRA 98 § 1204(b) noncompliance in six instances during FY 2020, 12 instances during FY 2021, and 14 instances during FY 2022. In all cases, IRS management failed to either: (1) maintain the retention standard documentation or (2) ensure that it was appropriately signed by both the manager and their employee as an acknowledgement that the Fair and Equitable Treatment of Taxpayers Retention Standard was furnished and discussed. Although TIGTA was

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[5] Offices subject to our Section 1204 review are IRS functional offices and operating divisions of the Independent Office of Appeals; the Office of the Chief, Criminal Investigation; the Large Business and International Division; the Small Business/Self-Employed Division; the Office of the National Taxpayer Advocate; the Tax Exempt and Government Entities Division; and the Wage and Investment Division, which are responsible for implementing the Section 1204 Program within their respective areas.

[6] Internal Revenue Code § 7803(d)(1) states that TIGTA shall include in one of the semiannual reports under Section 5 of the Inspector General Act of 1978, an evaluation of the compliance of the IRS with restrictions under Section 1204 of the RRA 98 on the use of enforcement statistics to evaluate IRS employees.

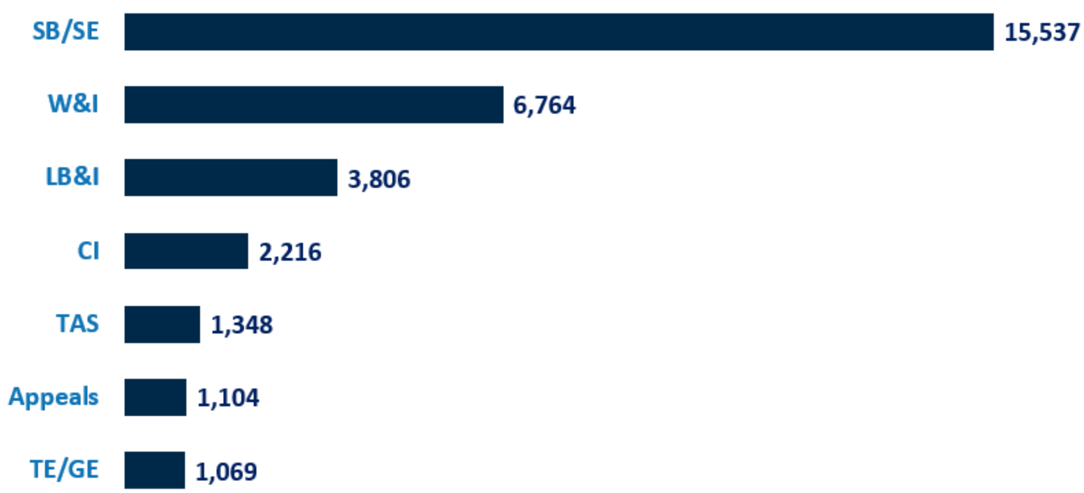
[7] Due to the Coronavirus Disease 2019 Pandemic, the Section 1204(c) quarterly certifications for the second and third quarters of FY 2020 were not completed until December 2020; therefore, FY 2020 certifications could not be reviewed (TIGTA, Report No. 2021-30-052, *Fiscal Year 2021 Statutory Audit of Compliance With Legal Guidelines Restricting the Use of Records of Tax Enforcements Results* (Aug. 2021)).

[8] The IRS began using a new automated certification process that had several inconsistencies in FY 2021, including mixed naming conventions and missing data; therefore, TIGTA was unable to review the FY 2021 quarterly certifications (TIGTA, Report No. 2022-30-067, *Fiscal Year 2022 Statutory Audit of Compliance With Legal Guidelines Restricting the Use of Records of Tax Enforcements Results* (Sept. 2022)).

unable to report on RRA 98 § 1204(c) violations in FYs 2020 and 2021, we identified 25 violations in FY 2022 where a Section 1204 manager did not complete at least one of the quarterly self-certifications.

As of September 30, 2023, there were 31,844 IRS employees subject to RRA 98 § 1204(a) requirements, of which 27,757 were non-supervisory employees and 4,087 were managers. Section 1204 managers either supervise a Section 1204 employee or provide guidance or direction on enforcement-related activities. Figure 4 shows Section 1204 non-supervisory employees and managers by business organization.

Figure 4: Number of Section 1204 Personnel by Business Organization (as of September 30, 2023)



Source: TIGTA analysis of data from the IRS's HR Connect Section 1204 employee list. Business Organizations: Appeals = Independent Office of Appeals, CI = Criminal Investigation, LB&I = Large Business and International Division, TAS = Taxpayer Advocate Service, SB/SE = Small Business/Self-Employed Division, TE/GE = Tax Exempt and Government Entities Division, and W&I = Wage and Investment Division.

Results of Review

The IRS is not permitted to use ROTERs or enforcement-related production goals or quotas to evaluate employees. For the purposes of identifying RRA 98 § 1204(a) violations and/or RRA 98 § 1204(b) noncompliance, we focused our coverage on the Large Business and International (LB&I) Division and the Wage and Investment (W&I) Division, now known as Taxpayer Services.[9] To determine RRA 98 § 1204(c) compliance, we reviewed all of the IRS's main business organizations subject to RRA 98 § 1204 requirements.

During FY 2023, the IRS was not in full compliance with RRA 98 §§ 1204(a), (b), and (c). We identified the following issues during our review:

[9] On April 7, 2024, the W&I Division was renamed to Taxpayer Services. For the historical events in this report, we will continue to use W&I Division, because this was the official title during the scope of our review. However, for future events and recommendations, we will use Taxpayer Services.

Section 1204(a) – seven violations associated with the use of ROTERs in employee performance evaluations in the W&I Division. The IRS also self-reported 14 violations of Section 1204(a) noncompliance in Criminal Investigation and the Small Business/Self-Employed Division.

Section 1204(b) – 30 instances of noncompliance in which IRS management failed to either maintain the retention standard documentation or ensure that it was appropriately signed in the LB&I and W&I Divisions.

Section 1204(c) – 28 managers did not complete at least one FY 2023 quarterly certification in multiple IRS business units.

The IRS Violated RRA 98 § 1204(a) in Seven Instances

We identified a total of seven violations of RRA 98 § 1204(a) in the W&I Division during FY 2023. These violations consisted of:

- Six violations associated with two supervisory employees' performance evaluations that contained ROTERs.
- One violation associated with one non-supervisory employee's performance evaluation that contained ROTERs.

In addition, the IRS self-reported 14 violations of RRA 98 § 1204(a) noncompliance (Small Business/Self-Employed Division self-reported 12 violations and Criminal Investigation self-reported two violations) in FY 2023 during its quarterly certification process. To evaluate compliance, we reviewed internal procedures, guidance, and prior violations for common language, terms, and phrases that have been or may be associated with ROTERs. We used computer software to analyze the information in 5,677 electronic performance evaluation files of Section 1204 non-supervisory employees and managers in the LB&I and W&I Divisions for these high-risk terms and phrases.[10] Our analysis identified 1,472 uses of these high-risk terms and phrases, associated with 1,129 unique performance evaluation documents.[11] We manually reviewed the terms and phrases within each evaluation document for context and use. The following is an example of an RRA 98 § 1204(a) violation that we found in the performance evaluation file of a manager:

> *[t]his has produced the lowest No Change rate of all the W&I sites.*

While the use of quantity measures for evaluating employees is allowed, their inclusion increases the risk that an evaluating supervisor may also include a tax enforcement result, thereby causing an RRA 98 § 1204(a) violation. On July 11, 2022, Form 12450 added a pop-up warning about the

[10] We noted key terms and phrases based on those terms or phrases provided as examples in the Internal Revenue Manual as well as violations noted in prior audits. These terms and phrases included reference to various tax enforcement terms, *e.g.*, lien, levy, seizure, fraud referral. We also included reference to a number before the term or phrase as part of our criteria, as enforcement results are likely to be quantified. We obtained 31,631 electronic performance file evaluations associated with all Section 1204 employees and managers from the Department of the Treasury, which owns the HR Connect application that stores the IRS's performance evaluation files. Of the electronic performance file evaluations obtained, we focused on the 5,677 files associated with the LB&I and W&I Divisions for the purposes of this audit.

[11] Of the 1,472 uses of high-risk terms and phases represented, the LB&I Division had 406 and the W&I Division had 1,066. Of the 1,129 unique performance evaluation documents, the LB&I Division had 290 and the W&I Division had 839.

potential relationship between quantity measures and RRA 98 § 1204(a) violations.[12] The impact of implementing this feature has not been assessed; however, we plan to review this change and determine the impact in next year's review.

Some self-assessments included ROTERs

Our review of the 1,129 performance evaluation documents from the LB&I and W&I Divisions flagged for containing high-risk terms and phrases also identified six instances in the W&I Division in which supervisory employees used ROTERs in self-assessments. While not a violation of RRA 98 § 1204(a), internal procedures prohibit the use of ROTERs in self-assessments.[13] These procedures require self-assessments with ROTERs be returned to the employee to remove the prohibited statements.

The Chief, Taxpayer Services, should:

Recommendation 1: Ensure that the seven violations of RRA 98 § 1204(a) identified by TIGTA are discussed with the responsible employees and their managers to ensure that they understand the guidelines related to the use of ROTERs.

> **Management's Response:** The IRS agreed with this recommendation and will discuss the seven violations with the responsible managers and their employees.

Recommendation 2: Ensure that the six instances of self-assessment ROTER noncompliance are discussed with the responsible employees and their managers to ensure that they understand the prohibition of ROTER usage in self-assessments.

> **Management's Response:** The IRS agreed with this recommendation and will discuss the six instances of ROTERs violations identified in self-assessments with the responsible managers and their employees.

Noncompliance With Retention Standard Documents Remains a Concern

As noted previously, RRA 98 § 1204(b) requires all IRS employees to be evaluated using the fair and equitable treatment of taxpayers as a performance standard (also known as the retention standard), not just those subject to the Section 1204(a) requirements. The standard applies to IRS executives, managers, and non-supervisory employees. The Internal Revenue Manual (IRM) mandates that both the receipt and acknowledgment of the retention standard, along with the performance rating be documented in the employee performance file and retained for four years.[14] Compliance with RRA 98 § 1204(b) is two-fold:

- The receipt and acknowledgment of the retention standard. Within the first 30 days of each performance period, managers must provide the appropriate receipt of the retention standard form to their employees. The manager must sign and date the appropriate form indicating the sharing of the retention standard with their employee,

[12] Versions of Form 12450 include Form 12450-A, Form 12450-B, and Form 12450-D.

[13] IRM 1.5.2.11.2 (Oct. 26, 2022).

[14] IRM 1.5.3.3(9) (Oct. 17, 2022).

and in turn, the employee must acknowledge receipt of the retention standard by also signing and dating the form.

- The annual performance reporting rating related to the retention standard. At the end of the performance period, the employee must be evaluated on the retention standard using the appropriate appraisal form.

For this report, we reviewed all employees in the LB&I and W&I Divisions who were subject to RRA 98 § 1204(b) requirements. To test this area, we selected a random sample of 144 performance files from a population of 16,110 managers and non-supervisory employees (4,387 and 11,723 individuals from the LB&I and W&I Divisions, respectively).[15] Our testing revealed that officials from the LB&I and W&I Divisions could not provide evidence of the retention standard document being completed or the associated acknowledgement within it being signed for 30 of the 144 sampled individuals. This resulted in a total of 30 instances (the LB&I Division had nine instances and the W&I Division had 21 instances) of noncompliance with RRA 98 § 1204(b) for the two business units during FY 2023.

Specifically, for the:

- LB&I Division:
  - Six instances where LB&I Division management could not provide the retention standard documentation or locate it within the employee performance files.
  - Three instances where the employee did not sign the acknowledgement for the retention standard.
- W&I Division:
  - 9 instances where W&I Division management could not provide the retention standard documentation or locate it within the employee performance files.
  - 12 instances where the employee did not sign the acknowledgement for the retention standard.

The IRS's internal guidelines require employees to acknowledge receipt of their retention standard each year even if their performance standards have not changed from the prior year.[16] In doing so, the applicable forms must be completed, signed, and dated by both the manager and their employee, before being retained in the employee performance files. Based on our sample results from a population of 16,110 employees and managers from the LB&I and W&I Divisions, we project there were 1,680 individuals (675 in the LB&I Division and 1,005 in the W&I Division) who had a missing retention standard document in their employee performance files,

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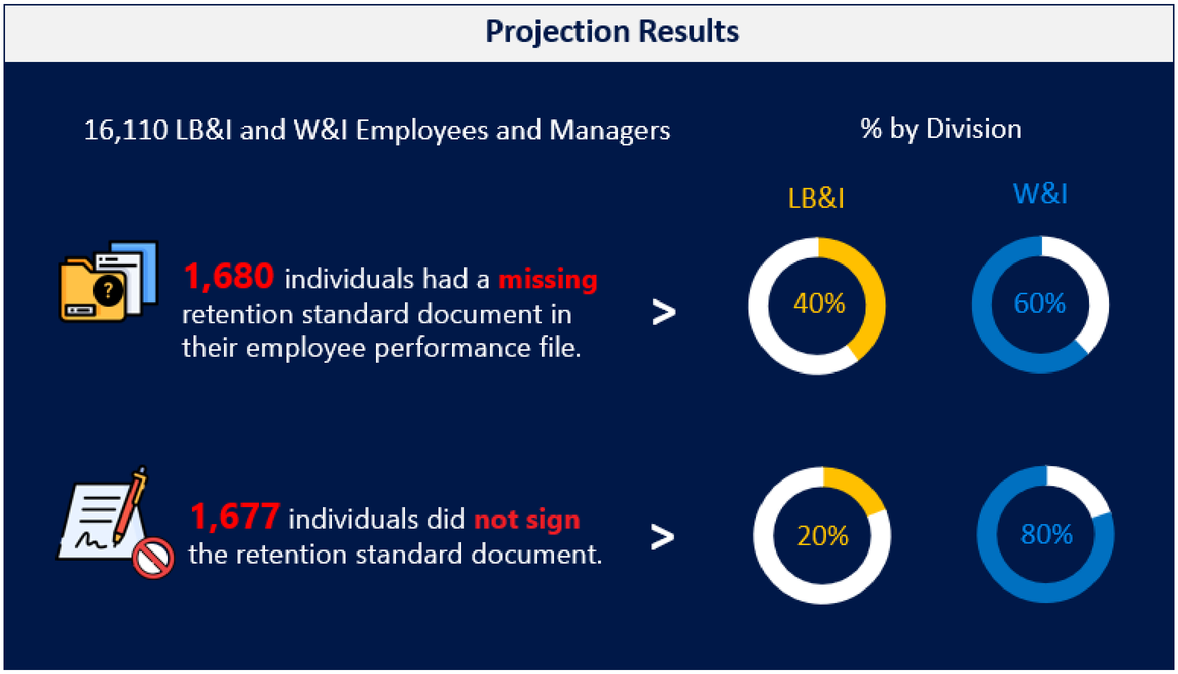
[15] The 144 electronic performance files were associated with all employees from the LB&I Division (39) and W&I Division (105). Our sample was selected using a 90 percent confidence interval, 1.80 percent error rate, and ±3 percent precision factor.

[16] IRM 1.5.3.3(5) (Oct. 17, 2022).

and 1,677 individuals (337 in the LB&I Division and 1,340 in the W&I Division) who did not sign the retention standard document acknowledging the retention standard.[17]



Documentation indicates that employees are still not acknowledging retention standards at the beginning of the rating period

TIGTA has historically reported on the timeliness associated with retention standard documents. Although timeliness and documentation noncompliance are not specifically addressed in RRA 98 § 1204(b), the law requires the IRS to use the fair and equitable treatment of taxpayers as one of the standards for evaluating employee performance. For the purposes of employee evaluation, Title 5 of the Code of Federal Regulations § 430.206 requires an appraisal program designating "an official appraisal period for which a performance plan shall be prepared, during which performance shall be monitored, and for which a rating of record shall be prepared."

The Code of Federal Regulations also requires that performance plans be provided to employees at the beginning of each appraisal period, and that each performance plan includes all elements used in developing a summary rating, *i.e.*, an evaluation. In addition, the IRM states that employees must acknowledge receipt of the retention standard each year within 30 days from the beginning of the rating period, even if their performance standards have not changed from the prior year.[18] The importance of the manager timely informing and obtaining acknowledgement from the employee provides assurance that: 1) the retention standards have been discussed and agreed upon by both parties and 2) the employee is knowledgeable in providing fair and equitable treatment of taxpayers.

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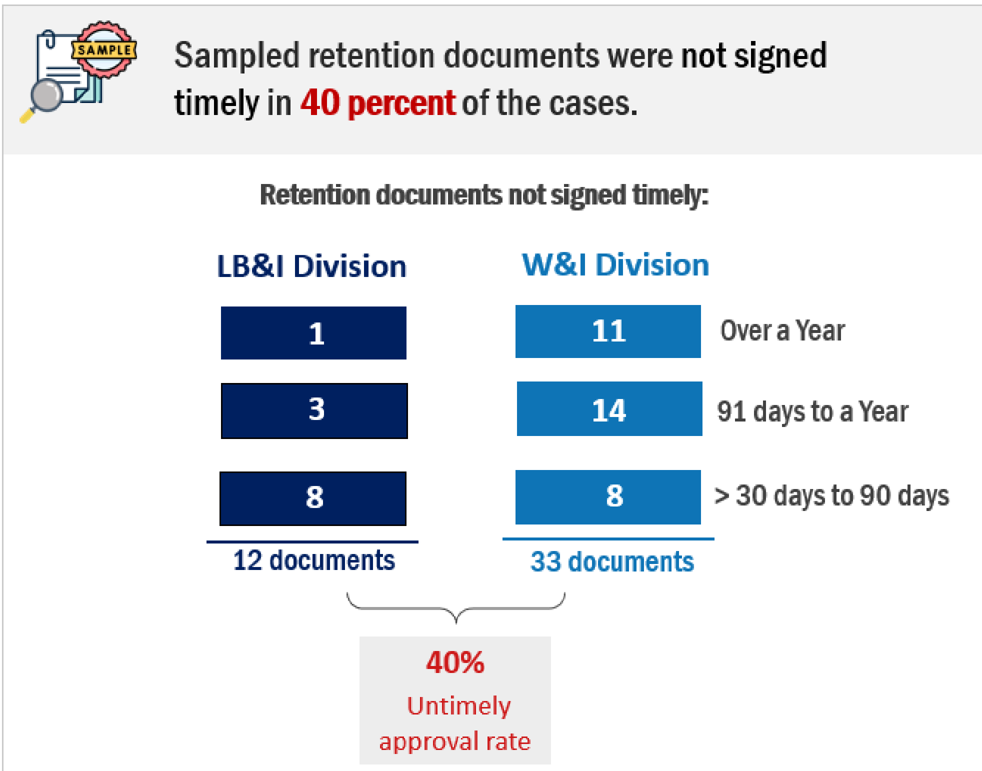
[17] Our sample was selected using a 90 percent confidence interval, 1.8 percent error rate, and ±3 percent precision factor. When projecting the results of our statistical sample for the missing retention standard forms, we are 90 percent confident that the actual total amount is between 1,006 and 2,354. When projecting the results of our statistical sample for the missing signatures on the retention standard forms, we are 90 percent confident that the actual total amount is between 1,003 and 2,352.

[18] IRM 1.5.3.3(5) (Oct. 17, 2022).

We were able to assess the timeliness of only 114 retention standard documents out of the 144 documents we sampled because 15 documents were missing and 15 documents were unsigned.[19] We identified 68 (60 percent) retention standard documents that were signed timely and 45 (40 percent) retention standard documents that were not signed timely. Figure 5 provides the results of our review.

Figure 5: Aging of the 45 Retention Standard Documents Not Signed Timely



Source: TIGTA review of Forms 6774 and 12450 with rating periods ending in FY 2023.

As noted previously, the failure to have all performance plans and agreements signed in a timely manner does not constitute a statutory violation of RRA 98 § 1204. However, the failure of managers and their employees to timely acknowledge their responsibility to treat taxpayers fairly and equitably is a concern. Establishing controls that require the acknowledgment of the retention standard at the onset of the rating period offers substantial benefits. These measures afford management the opportunity to advise subordinate employees of their requirement to administer the tax laws fairly and equitably; protect taxpayer rights; and treat each taxpayer ethically with honesty, integrity, and respect.

Recommendation 3: The Commissioner, LB&I Division, and the Chief, Taxpayer Services, should ensure that the 30 instances of noncompliance with RRA 98 § 1204(b) are discussed with the responsible managers to ensure that they understand the retention standard documentation requirements.

[19] Additionally, one retention standard document was outside the scope of our review.

Management's Response: The IRS agreed with this recommendation and the 30 instances of RRA 98 § 1204(b) noncompliance. The Commissioner, LB&I Division, will discuss the nine instances and the Chief, Taxpayer Services, will discuss the 21 instances of noncompliance with the responsible managers to ensure that they understand the retention standard documentation.

Office of Audit Comment: We reported on 31 exceptions in our draft report; however, the Taxpayer Services Division identified an error made when they initially agreed to our exceptions and provided additional documentation indicating that one of the cases was not an exception. This final report reflects the removal of the one exception, reducing the overall exceptions from 31 to 30 instances of noncompliance.

Fiscal Year 2023 Quarterly Certifications Associated With RRA 98 § 1204(c) Were Not Always Completed As Required

To determine RRA 98 § 1204(c) compliance, we reviewed all the IRS's main business units subject to RRA 98 § 1204 requirements. We reviewed 16,158 unique certifications spanning all four quarters of FY 2023 to determine whether Section 1204 managers had fulfilled their quarterly certification requirement to ensure that ROTERs, production quotas, or goals were not used in a prohibited manner. We found:

- 15,657 quarterly certifications were completed within the specified time frame.
- 301 were not timely certified.
- 200 were not completed at all. Of the 200 certifications that were not completed, 28 did not have a reasonable explanation.[20]

Further, 666 additional certifications were completed during the fiscal year, despite not having a certification assignment in IRS systems. IRS business units were unaware of the additional certifications because the individuals were not identified as Section 1204 managers during the assignment process. IRS business units provided feedback on only 97 of the 666 additional completed certifications as follows:

- 32 employees should not have completed the certifications because they were not considered Section 1204 managers.
- 65 certifications were appropriately completed by Section 1204 managers. The IRS was unable to explain why these managers were not initially assigned the certification.

In FY 2020, the IRS began moving away from a paper certification process to an automated process using the ITM system. The IRS piloted the new certification process in FY 2020 and required all Section 1204 managers to use the ITM system to complete their quarterly certifications in FY 2021. Due to inconsistencies found in the FY 2021 ITM certification data,

[20] The 172 of 200 certifications that were not completed had a reasonable explanation, such as retirement, resignation, incorrect Section 1204 designation, ITM system issues, or extended leave.

TIGTA was unable to report on the certifications in our FY 2022 review.[21] We reviewed a total of 16,012 unique certifications for all four quarters of FY 2022 in our FY 2023 review.[22]

Each quarter, the IRS Human Capital Office (HCO) creates a Section 1204 HR Connect Manager Report that lists managers with a Section 1204 indicator in HR Connect. The HCO provides this report to Section 1204 program managers within each business unit to reconcile against their Section 1204 managers list. The Section 1204 program manager in each business unit disseminates the report to the primary operating unit Section 1204 coordinators by e-mail, along with instructions to add or remove managers, including acting managers. Once completed, the report is returned to the business unit program manager who sends the revised report back to the HCO. The HCO uses the updated list to assign the quarterly certifications in the ITM system to the Section 1204 managers.

A *Leader's Alert* is issued quarterly to all Section 1204 managers informing them of the certification requirement and the due date. The business units have up to 45 days after the end of the quarter to timely complete their certifications and report potential ROTER violations. After the end of the 45-day period, the HCO provides the business units' Section 1204 program managers with a weekly report containing a list of complete, incomplete, and late certifications to be reconciled. One week later, the HCO issues a second weekly report to the business unit program managers that reflects the updated certifications.

RRA 98 § 1204(c) requires Section 1204(a) supervisors to quarterly certify by letter to the IRS Commissioner about whether ROTERs, production quotas, or goals were used in a prohibited manner. IRM 1.5.3.4.1 states that Section 1204 quarterly certifications are based on the fiscal year. Quarterly submissions are due to the HCO from the business units 45 calendar days after the end of the quarter, and the Quarterly Certification Memorandum of Record must be submitted for internal review and routed no later than 15 days after the quarterly certification due date.

The HCO's Director, Policy and Audit Division, was authorized to sign this memorandum during the first three quarters of FY 2023. In the 4th quarter of FY 2023, the HCO's Director, Office of Human Resources Strategy and Transformation, was delegated the authority to sign it. The memorandum is posted to the IRS Source Page and the IRS's SharePoint site.[23] Upon reviewing the memoranda, we noted that the HCO has granted itself the authority to retroactively report Section 1204(a) violations it may have missed in the past (beginning in the 2nd quarter of FY 2023):

> *Quarterly certification is cumulative meaning that if a violation isn't reported in one quarter it can be reported in a subsequent quarter. If a violation is not caught during a previous ITM* [system] *certification window, it may be reported in the next ITM* [system] *quarterly certification.*

[21] TIGTA, Report No. 2022-30-067, *Fiscal Year 2022 Statutory Audit of Compliance With Legal Guidelines Restricting the Use of Records of Tax Enforcements Results* (Sept. 2022).

[22] TIGTA, Report No. 2023-30-058, *Fiscal Year 2023 Statutory Audit of Compliance With Legal Guidelines Restricting the Use of Records of Tax Enforcements Results* (Sept. 2023).

[23] IRM 1.5.3.4.8 (Oct. 17, 2022).

In addition to reviewing whether the certification was completed, this year we also reviewed the responses to the Section 1204 Quarterly Electronic Certification questions in all four quarters. The questions the managers were asked to certify are:

1. I certify to the Commissioner of Internal Revenue that I did not use records of tax enforcement results (as defined in Section 801.6) to evaluate my employee or to impose or suggest production quotas or goals this quarter.
2. While carrying out my due diligence to complete this certification, I identified what may be the inappropriate use of records of tax enforcement results. I notified my Section 1204 Program Manager of my report.

If a Section 1204 manager selects disagree for the first question or selects yes for the second question, the manager is required to report the violation within a separate SharePoint system.

We identified 507 responses within the completed certifications that should have warranted additional reporting on potential ROTER violations in the SharePoint system. This figure did not match the SharePoint reports or the 14 reported violations in the Section 1204 business units' consolidated Quarterly Certification Memorandum of Record. TIGTA notified the IRS about the discrepancy between the identified responses and actual reported figures, highlighting a potential disconnect between the two systems used for the certification process (ITM and SharePoint). IRS management acknowledged an ITM system issue in the certification process, recognizing the possibility for Section 1204 managers to bypass reporting potential violations after responding in a manner that would necessitate such action. HCO Section 1204 Program Office management stated that they will meet with their partners to address this issue. IRS management explained that 195 of the 507 responses involved a Section 1204 manager who erroneously responded to the applicable question on the certification. However, the IRS could not provide an explanation on the remaining 312 responses.

When quarterly certifications are not completed or completed improperly, there is an increased risk that ROTERs used in a manner prohibited under RRA 98 § 1204(a) are not reported. In addition, if the IRS Commissioner is not notified of the IRS's noncompliance with RRA 98 § 1204(a) each quarter, the IRS may be in violation of RRA 98 § 1204(c).

The Chief Human Capital Officer should:

Recommendation 4: Ensure that the 28 instances of RRA 98 § 1204(c) noncompliance are discussed with the responsible managers to ensure that they understand the requirements of the Section 1204 certification process.

> **Management's Response:** The IRS agreed with this recommendation. The HCO will review the 28 instances of RRA 98 § 1204(c) noncompliance and determine if subsequent reporting is needed and/or completed.

Recommendation 5: Create and implement a systemic fix to ensure that Section 1204 managers completing their quarterly certifications are automatically routed to the appropriate SharePoint page(s) when their responses necessitate additional information reporting about potential ROTER violations.

Management's Response: The IRS agreed with this recommendation. The HCO implemented an interim solution for managers to report potential ROTER violations that are reviewed by the Section 1204 business unit program managers.

Section 1204 and Non-Section 1204 Employees Are Not Consistently Designated in the Human Resource System

We identified 62 Section 1204 managers for whom the HR Connect Section 1204 indicator was active in FY 2022, but inactive in FY 2023, despite showing as a Section 1204 manager in the Time Input Management Information System during the same period. IRS management explained that 51 of the 62 managers were: 1) on a detail assignment in FY 2023, 2) no longer designated a Section 1204 manager, 3) retired, 4) incorrectly classified in prior years, or 5) assigned to the wrong business unit. The remaining 11 Section 1204 managers had an HR Connect indicator that was overlooked until TIGTA raised the issue with the applicable business units. The indicator was updated in FY 2024 to reflect the appropriate designation.

In addition, we found inconsistencies with 14 non-supervisory employees who had the HR Connect Section 1204 indicator active on their profile as of September 30, 2023, even though they failed to meet the Section 1204 employee criteria. In these instances, IRS officials said that the discrepancy was caused by managerial oversight. As of FY 2024, all corrections to remove the active indicator status for these employees have been made.

We also identified 72 non-supervisory employees who did not have the HR Connect Section 1204 indicator activated as of September 30, 2023, despite meeting the Section 1204 employee criteria. IRS officials explained that the employees' managers incorrectly designated them non-Section 1204 employees when they failed to activate the indicator. As of FY 2024, all corrections to update the HR Connect Section 1204 indicator for these employees have also been made.

The Section 1204 designation is not universally applied across the IRS. The designation applies to any employee, including managers at all levels, who exercises judgment in recommending or determining the IRS's enforcement of the tax laws. It also encompasses employees responsible for providing direction or guidance for field programs involving Section 1204 work activities, including IRM guidance. During the year, these erroneous designations can affect the IRS's ability to timely deliver training and certification assignments.

Incorrect designations also raise concerns about the accuracy of managers' quarterly certifications regarding their employees' coverage under RRA 98 § 1204(a). The IRS currently uses a multistep process to support applicable managers in designating themselves and their employees as Section 1204 personnel. As part of this process, Section 1204 managers must use the HR Connect indicator to make the correct designation and validate the designation as part of their Section 1204(c) quarterly certification process.[24]

[24] The HR Connect Section 1204 indicator was set up to manage the Section 1204(a) population more efficiently, reduce managerial burden in the Section 1204 certification process, and improve the accuracy of reporting. It also supports the annual TIGTA audit and independent reviews completed by the IRS.

Section 1204 Employees Did Not Always Complete the Annual RRA 98 Mandatory Briefing

For the FY 2023 period, 30,298 of the 30,729 employees assigned the self-study briefing (hereafter "mandatory briefing") timely completed it within the 90-day required time frame. Conversely, 191 completed the mandatory briefing after 90 days and 240 employees did not complete it at all. Of the 240 employees who failed to complete the training by December 31, 2023, 206 had valid explanations, which included retirement, leave of absence, ITM system error, or an incorrect Section 1204 employee designation. The remaining 34 Section 1204 employees did not have a valid explanation for not completing the training.

All Section 1204 personnel are required to complete the RRA 98 § 1204 mandatory briefing annually. The FY 2023 mandatory briefing was available for Section 1204 personnel starting July 3, 2023, and due September 29, 2023. Section 1204 personnel who were hired and assigned the mandatory briefing after July 3, 2023, and on or prior to September 29, 2023, were given 90 additional days to complete it (*i.e.*, by December 31, 2023).[25] TIGTA obtained the December 31, 2023, training status report for all Section 1204 employees assigned the mandatory briefing in FY 2023. We used this report to determine whether the assigned employees completed the FY 2023 training within the designated 90-day time frame. In total, TIGTA identified 30,729 employees who were assigned the mandatory briefing.

Under IRM 1.5.3.8, the HCO is responsible for providing the mandatory briefing to managers and employees annually through the ITM system based on the HR Connect Section 1204 indicator status. The training is scheduled and assigned to the ITM system learning plans of Section 1204 managers and non-supervisory employees. In addition, the HCO sends out an alert to the entire Section 1204 workforce on an annual basis, notifying them of the mandatory briefing and its availability in the ITM system.

As part of this year's review, we performed additional analysis and identified 1,280 Section 1204 employees in the FY 2023 Section 1204 population who were not assigned the FY 2023 mandatory briefing. IRS management offered the following reasons:

- Section 1204 employees were inadvertently left off the December 31, 2023, training status report provided to TIGTA despite being assigned and shown as completing the training in the September 30, 2023, training status report due to the following reasons:
    - Employees were no longer in the business unit after September 30, 2023.
    - The HR Connect Section 1204 indicator was changed to "No" after September 30, 2023.
    - Employees were assigned the FY 2023 mandatory briefing after September 30, 2023.
- Section 1204 employees were on extended leave.

[25] The ITM system is designed to calculate the due date by the number of days from assignment, and this cycle was 90 days (July 3, 2023, to September 30, 2023). However, our analysis showed instances where some new Section 1204 employees hired in the months of August and September were given 90 days to complete the mandatory briefing according to the mandatory briefing spreadsheet generated from the ITM system.

- Section 1204 employees retired or separated from the IRS during the year. In these cases, the employees may have completed the mandatory briefing, but records would be unavailable due to their removal from the system.
- The business unit was unable to determine whether the employee was assigned or completed the mandatory briefing.
- Section 1204 employees had no information in HR Connect, were not correctly designated as Section 1204 employees, or had a note stating they were not systemically assigned the mandatory briefing.

We also identified 165 Section 1204 employees who were assigned the FY 2023 mandatory briefing, despite not being included in the FY 2023 Section 1204 population as of September 30, 2023. IRS management gave the following explanations for why this occurred:

- The Section 1204 employee was incorrectly classified as a non-Section 1204 employee during FY 2023. The Section 1204 indicator was activated in FY 2024.
- The employee was not subject to Section 1204 and was incorrectly assigned the mandatory briefing.
- The HR Connect Section 1204 indicator was inactive when the Section 1204 population report was generated (September 30, 2023) but was active in July 2023 when the mandatory briefing was assigned.
- The Section 1204 manager erroneously deactivated the HR Connect Section 1204 indicator.

When a Section 1204 employee's HR Connect indicator is inaccurate, they could be omitted from the annual mandatory briefing assignment in the ITM system. Without training, they may be unaware of the requirements of RRA 98 § 1204, resulting in an increased risk of ROTER violations. If the HR Connect system is not reconciled against the briefing assignments, there is a risk that the Section 1204 employees assigned the annual mandatory briefing may not be included in the actual Section 1204 population. Consequently, it is possible that the IRS is not fully accounting for all Section 1204 employees in the HR Connect Section 1204 population.

Recommendation 6: The Chief Human Capital Officer should perform an annual reconciliation to ensure that: 1) all Section 1204 employees assigned the yearly Section 1204 mandatory briefing are accounted for in the yearly Section 1204 population and 2) the entire Section 1204 population has been assigned the annual Section 1204 mandatory briefing.

> **Management's Response:** The IRS agreed with this recommendation. The Section 1204 indicator report is a snapshot in time of those IRS managers and employees subject to RRA 98 § 1204 requirements. The IRS will manually perform an annual reconciliation of those with Section 1204 indicator status as of October 1 to those assigned the Section 1204 mandatory training based on that status as of September 30, until it develops a systemic method to address the issue.

Appendix I

Detailed Objective, Scope, and Methodology

The overall objective of this review was to determine whether the IRS complied with restrictions on the use of enforcement statistics to evaluate employees as set forth in RRA 98 § 1204. To accomplish our objective, we:

- Determined if the IRS complied with the provisions of RRA 98 § 1204(a) when evaluating the performance of Section 1204 employees. We used computer software to analyze information in 5,677 electronic performance evaluation files of Section 1204 employees and managers in the LB&I and W&I Divisions for the use of high-risk terms and phrases.
- Determined if the IRS complied with the provisions of RRA 98 § 1204(b) when evaluating the performance of Section 1204 and non-Section 1204 employees. The LB&I and W&I Divisions had a population of 16,110 employees (4,387 and 11,723 individuals from the LB&I and W&I Divisions, respectively). We selected a stratified random sample of 144 performance files from the population of employees in the LB&I Division (sample size = 39) and the W&I Division (sample size = 105) to test compliance with retention standards. Our sample was selected using a 90 percent confidence interval, 1.8 percent error rate, and ±3 percent precision factor.
- Determined if the Section 1204 managers complied with RRA 98 § 1204(c) by certifying whether ROTERs were used in a manner prohibited by subsection (a). We identified a total population of 16,158 certifications for all four FY 2023 quarters.
- Determined whether the mandatory RRA 98 § 1204 training for managers and employees adequately addressed the use of ROTERs and/or the retention standards and whether all Section 1204 managers and employees completed the training for FY 2023.

Performance of This Review

This review was performed with information obtained from the Independent Office of Appeals; the Office of the IRS Human Capital Officer; the Office of the Chief, Criminal Investigation; the Office of the National Taxpayer Advocate; the LB&I Division; the Small Business/Self-Employed Division; the Tax Exempt and Government Entities Division; and the W&I Division from November 2023 to June 2024. We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

Major contributors to the report were Matthew A. Weir, Assistant Inspector General for Audit (Compliance and Enforcement Operations); Phyllis Heald, Acting Assistant Inspector General for Audit (Compliance and Enforcement Operations); Frank O'Connor, Acting Assistant Inspector General for Audit (Compliance and Enforcement Operations); Robert Jenness, Director; Michele Jahn, Audit Manager; Shalin Basnayake, Acting Audit Manager; Carrie Mares, Acting

Audit Manager; Ken Henderson, Lead Auditor; Jonathan Lee, Auditor; and Terrence Walton, Information Technology Specialist (Data Analytics).

Data Validation Methodology

We obtained the FY 2023 Section 1204 employee and manager list, as well as the FY 2023 non-Section 1204 lists for the LB&I and W&I Divisions from the IRS Human Capital Officer. We used these lists to develop our stratified sampling plan. Our sampling plan was developed in consultation with our contracted statistician. We also obtained the population of evaluations completed in FY 2023 from the Department of the Treasury HR Connect system. To determine the reliability of our datasets, we reviewed the Section 1204 population data for duplicates and any missing information and compared the data to the Discovery Directory, as well as the Treasury ITM system. We also reviewed existing information about the data and the system that produced them and interviewed agency officials within the IRS and the Department of the Treasury knowledgeable about the data. These tests determined that the data were sufficiently reliable and could be used to meet the objective of this audit.

Internal Controls Methodology

Internal controls relate to management's plans, methods, and procedures used to meet their mission, goals, and objectives. Internal controls include the processes and procedures for planning, organizing, directing, and controlling program operations. They include the systems for measuring, reporting, and monitoring program performance. We determined that the following internal controls were relevant to our audit objective: the guidelines and rules related to using ROTERs in a way as to improperly influence the handling of taxpayer cases and retention standard guidance. We evaluated these controls by reviewing available midyear and annual performance reviews, employee self-assessments, quarterly self-certifications, and a stratified sample of retention standard documentation.

Appendix II

Management's Response to the Draft Report

HUMAN CAPITAL OFFICE

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, DC 20224

9/6/24

MEMORANDUM FOR DANNY R. VERNEUILLE
ACTING DEPUTY INSPECTOR GENERAL FOR AUDIT

FROM: Traci M. DiMartini
IRS Human Capital Officer

Traci M. DiMartini
Digitally signed by Traci M. DiMartini
Date: 2024.09.05 08:24:26 -04'00'

SUBJECT: Draft Audit Report – TIGTA Audit 2024300007 Fiscal Year 2024 Statutory Audit of Compliance with Legal Guidelines Restricting the Use of Records of Tax Enforcement Results

Thank you for the opportunity to review and comment on the draft report, Fiscal Year 2024 Statutory Audit of Compliance with Legal Guidelines Restricting the Use of Records of Tax Enforcement Results (ROTER), Audit #202430007.

The IRS workforce consists of over 35,000 employees subject to the Reform and Restructuring Act of 1998 (RRA 98). The IRS is dedicated to improving all Section 1204 components including analysis, reporting, program performance, and legislative compliance. We are currently upgrading the Integrated Talent Management (ITM) system used within the Department of Treasury for enhanced RRA 98 compliance including:

(1) Identifying Section 1204 managers and employees using a unique designation that reacts to Personnel Action Requests (PAR) and allows new hires and business unit transfers to be recognized subject to the legislative requirements.

(2) Merging the separate performance Form 6774, Receipt of Critical Job Elements and Equitable Treatment of Taxpayers Retention Standard (performance requirements acknowledgement) with the Form 6850, Bargaining Unit and Non-Bargaining Unit Performance Appraisal (performance evaluation) to enhance the evaluation process.

(3) Improving the annual Section 1204 Mandatory Briefing assignment to Section 1204 managers and employees by upgrading the status to Mandatory Training that reacts to changes occurring in the Section 1204 designation and assigns the training to help IRS managers and employees understand the unique Section 1204 program requirements.

(4) Improving the Section 1204 quarterly certification used by managers to certify to the IRS Commissioner their compliance with RRA 98 in evaluating employees by making the assignment profile responsive to PAR changes.

(5) Allowing managers and employees to scan performance documents for prohibited terms prior to finalization.

The IRS is dedicated to working with our managers to improve compliance with the retention standard. For example, in November 2023, Large Business & International (LB&I) published an article in its *Managers' News Brief* that is distributed to all LB&I managers reminding them of the requirements. The LB&I Source maintains a page on the retention standard and other Section 1204 topics that includes resources and points of contact as well as a frequently asked questions page.

Although our Section 1204 compliance is elevated, we continue to work towards reducing the number of violations and instances of noncompliance. In keeping with the recommendations addressed to the Chief, Operating Officer, the Chief, Taxpayer Services, the Commissioner, LB&I, and the Human Capital Officer, attached is a detailed response outlining the corrective actions the IRS will take to address your recommendations.

If you have questions, please contact me at traci.m.dimartini@irs.gov, or a member of your staff may contact Rekisha White, Human Capital Office Chief of Staff, at rekisha.l.white@irs.gov.

Attachment

Attachment

Corrective Actions: TIGTA Audit 2024300007

Recommendation 1: The Chief, Taxpayer Services should ensure that the seven violations of RRA 98 §1204(a) identified by TIGTA are discussed with the responsible employees and their managers to ensure they understand the guidelines related to the use of ROTERs.

- **Corrective Action:** The IRS agrees and will discuss the identified §1204 violations with the responsible employees and their managers.
- **Implementation Date:** March 15, 2025
- **Responsible Officials:** Director, Return Integrity and Compliance Services, Taxpayer Services Division
- **Corrective Action Monitoring Plan:** The IRS will monitor this corrective action as part of our internal management system of controls.

Recommendation 2: The Chief, Taxpayer Services should ensure that the six instances of self-assessment ROTER noncompliance are discussed with the responsible employees and their managers to ensure they understand the prohibition of ROTER usage in self-assessments.

- **Corrective Action:** The IRS agrees and will discuss the six instances of ROTER violations are discussed with the responsible managers and employees.
- **Implementation Date:** March 15, 2025
- **Responsible Officials:** Director, Return Integrity and Compliance Services, Taxpayer Services Division
- **Corrective Action Monitoring Plan:** The IRS will monitor this corrective action as part of our internal management system of controls.

Recommendation 3: The Commissioner, LB&I Division, and the Chief, Taxpayer Services, should ensure that the 31 instances of noncompliance with RRA 98 §1204(b) are discussed with the responsible managers to ensure they understand the retention standard documentation requirements.

- **Corrective Action (3a):** The IRS agrees with this recommendation and will ensure that the nine instances of RRA 98 §1204(b) noncompliance are discussed with the responsible managers to ensure they understand the retention standard documentation.

- **Implementation Date (3a):** April 15, 2025
- **Responsible Officials (3a):** LB&I Director, Technology and Program Solutions

- **Corrective Action (3b):** The IRS agrees that 16 of the 17 instances identified within the Customer Account Services organization represent noncompliance with the provisions of the Restructuring and Reform Act of 1998 (RRA '98) §1204(b). We will discuss the instances of noncompliance with the responsible managers.
- **Implementation Date (3b):** March 15, 2025
- **Responsible Officials (3b):** Director, Customer Account Services, Taxpayer Services Division

- **Corrective Action (3c):** The IRS agrees and will discuss the 3 instances of RRA '98 §1204(b) noncompliance with the responsible managers.
- **Implementation Date (3c):** March 15, 2025
- **Responsible Officials (3c):** Director, Return Integrity and Verification Services, Taxpayer Services Division

- **Corrective Action (3d):** The IRS agrees and will discuss the two instances of RRA '98 §1204(b) noncompliance with the responsible managers.
- **Implementation Date (3d):** March 15, 2025
- **Responsible Officials (3d):** Director, Customer Assistance, Relationships and Education, Taxpayer Services Division

- **Corrective Action Monitoring Plan:** The IRS will monitor this corrective action as part of our internal management system of controls.

Recommendation 4: The IRS Human Capital Officer should ensure that the 28 instances of RRA 98 § 1204(c) noncompliance are discussed with the responsible managers to ensure they understand the requirements of the Section 1204 certification process.

3

- **Corrective Action:** The IRS agrees with this recommendation. The Human Capital Office (HCO) will review the 28 instances identified and determine if subsequent reporting is needed and/or completed.
- **Implementation Date:** September 15, 2025
- **Responsible Officials:** IRS Human Capital Officer
- **Corrective Action Monitoring Plan:** The IRS will monitor this corrective action as part of our internal management system of controls.

Recommendation 5: The IRS Human Capital Officer should create and implement a systemic fix to ensure that Section 1204 managers completing their quarterly certifications are automatically routed to the appropriate SharePoint page(s) when their responses necessitate additional information reporting about potential ROTER violations.

- **Corrective Action:** The IRS agrees with this recommendation. The HCO has implemented an interim SharePoint solution for managers to report potential ROTER violations that are reviewed by the Section 1204 business unit program managers to verify the potential ROTER violations are actual ROTER violations.
- **Implementation Date:** September 15, 2026
- **Responsible Officials:** IRS Human Capital Officer
- **Corrective Action Monitoring Plan:** The IRS will monitor this corrective action as part of our internal management system of controls.

Recommendation 6: The IRS Human Capital Officer should perform an annual reconciliation to ensure: 1) all Section 1204 employees assigned the yearly Section 1204 mandatory briefing are accounted for in the yearly Section 1204 population; and 2) the entire Section 1204 population has been assigned the annual Section 1204 mandatory briefing.

- **Corrective Action:** The IRS agrees with this recommendation. The Section 1204 indicator report is a snapshot in time of those IRS managers and employees subject to the RRA 98 §1204 requirements. IRS managers and employees enter and exit Section 1204 status during the fiscal year. The IRS will manually perform an annual reconciliation of those with Section 1204 indicator status as of October 1 to those assigned the Section 1204 mandatory training based on that status as of September 30, until a systemic solution is devised.

4

- **Implementation Date:** September 15, 2026
- **Responsible Officials:** IRS Human Capital Officer
- **Corrective Action Monitoring Plan:** The IRS will monitor this corrective action as part of our internal management system of controls.

Appendix III

Glossary of Terms

Term	Definition
Discovery Directory	A computer system available to IRS personnel that provides information on IRS employees including their names, job title, job location, and management level.
Employee Performance File	A system consisting of all performance records maintained on an employee.
Fiscal Year	Any yearly accounting period, regardless of its relationship to a calendar year. The Federal Government's fiscal year begins on October 1 and ends on September 30.
HR Connect	A human resource system owned and operated by the U.S. Department of the Treasury.
Integrated Talent Management	One system which consolidates several human resource systems and includes four primary human resource management modules: Learning, Performance Management, Succession Planning, and Workforce Planning.
Internal Revenue Manual	The primary official source of instructions to staff related to the organization, administration, and operation of the IRS.
Leaders' Alert	An at-a-glance electronic newsletter for IRS executives, managers, and management officials, e-mailed every Tuesday.

Appendix IV

Abbreviations

FY	Fiscal Year
HCO	Human Capital Office
IRM	Internal Revenue Manual
IRS	Internal Revenue Service
ITM	Integrated Talent Management
LB&I	Large Business and International
ROTER	Record of Tax Enforcement Result
RRA 98	Restructuring and Reform Act of 1998
TIGTA	Treasury Inspector General for Tax Administration
W&I	Wage and Investment

To report fraud, waste, or abuse,
contact our hotline on the web at www.tigta.gov or via e-mail at oi.govreports@tigta.treas.gov.

To make suggestions to improve IRS policies, processes, or systems affecting taxpayers, contact us at www.tigta.gov/form/suggestions.

Information you provide is confidential, and you may remain anonymous.