



OFFICE OF
INSPECTOR GENERAL

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

October 1, 2019

OIG-CA-20-003

MEMORANDUM FOR: MARY RYAN, ACTING ADMINISTRATOR
ALCOHOL AND TOBACCO TAX AND TRADE BUREAU

FROM: Deborah L. Harker /s/
Assistant Inspector General for Audit

SUBJECT: Termination Memorandum – Audit of Alcohol and Tobacco
Tax and Trade Bureau’s Use of Offers in Compromise to
Collect Revenue

In November 2012, we initiated an audit of the Alcohol and Tobacco Tax and Trade Bureau (TTB) collection practices. The objective of our audit was to evaluate TTB’s use of offers in compromise (OIC) to resolve violations of laws and regulations enforced by TTB and to settle unpaid tax liabilities associated with delinquent tax debts.

During our fieldwork we found that TTB’s National Revenue Center (NRC), a division within the Office of Field Operations (Field Operations), did not have a reliable case management methodology to track and monitor tax-only OICs made by industry members to resolve delinquent tax debts.¹ Prior to fiscal year 2012, TTB utilized a spreadsheet to monitor tax-only OICs, but it was not consistently updated to reflect the current status or identify all activity associated with each offer. In addition, we reviewed OICs that were accepted, rejected, or still in progress during fiscal years 2011 and 2012. We reviewed all 35 of the tax-only OIC case files and found that 8 lacked various documents identified in internal Delinquent Tax Section (DTS) procedures that should be included in the files documenting the history of each case.² In September 2012, NRC implemented an in-house-developed document tracking application. Although this application

¹ Delinquent tax debts associated with tax-only OICs include unpaid tax, interest, and penalties assessed by TTB. Non-tax OICs are used to resolve violation of laws and regulations. Non-tax OICs are negotiated and settled by TTB’s Field Operations management. Once a non-tax OIC is accepted by Field Operations management, NRC tracks the payments.

² Each OIC case file should include documentation pertinent to the specific case. Documents that should be part of all case files include case history sheets, taxpayer notification letters, and abstract and statement (A&S) forms identifying the total assessed liability, violations found, amount of the offer, payment terms, and recommendations for acceptance or rejection of the offer.

improved NRC's ability to track OICs, it did not function as an effective case management tool.

We also found TTB was using outdated Bureau of Alcohol, Tobacco, Firearms and Explosives (TTB's predecessor agency, formerly known as the Bureau of Alcohol, Tobacco and Firearms)³ guidance, dating back to 1976, relating to processing procedures for tax-only OICs.

Our review also found that a number of OIC agreements reached associated with delinquent tax debts were negotiated by TTB headquarters with no apparent NRC involvement. In addition, a number of these OICs accepted during our review period were not made available to the public on TTB's website as required by existing TTB guidance.⁴ TTB has since posted these OICs to the website.

Finally, we again found that TTB did not perform any trend analysis to measure the usefulness of OICs as a tool to collect taxes, settle violation of law and regulations, and determine if TTB was consistent in its decisions to accept OICs. This was also recommended in a prior 2002 audit.⁵

During the course of the audit, TTB made multiple changes that address the weaknesses we identified. In August 2018, TTB management informed us that they had implemented a new case management system that will enhance their ability to track and monitor the delinquent tax portfolio and to support decisions made on related OICs. TTB also created the Office of Permitting and Taxation directorate, separating the NRC from the Field Operations directorate to address the need for dedicated Senior Executive oversight of NRC processes and programs, including enforced collections and the approval and monitoring of tax-related OICs. Subsequently in April 2019 TTB updated most of their delegation orders, standard operating procedures and handbooks. TTB had also reconsidered the need for performing trend analysis on resolved OICs and believes that OICs are inherently fact-specific based on the circumstances of each case and as such, the unique facts of each case need to be considered by the deciding official when entering into a settlement. With that being said, TTB stated that a review of prior OICs is a standard procedure when TTB evaluates new settlements to ensure consistent administration of OICs.

³ The Homeland Security Act of 2002 (November 25, 2002) divided the Bureau of Alcohol, Tobacco and Firearms into two separate agencies; the Bureau of Alcohol, Tobacco, Firearms and Explosives under the Department of Justice and TTB under Treasury.

⁴ TTB O 5190.2, *Abstracts and Statements for Offers in Compromise* (November 15, 2004). This order was updated by TTB on September 22, 2016.

⁵ Treasury Office of Inspector General (OIG): *REVENUE COLLECTION: ATF Needs To Improve Its Offers In Compromise Process* (OIG-02-078; issued April 15, 2002).

Given the recent upgrades to TTB's case management module, and in consideration of the new organizational structure and updated policies at the NRC that would allow TTB to address our concerns, we believe it would be more beneficial to terminate the current audit and assess the actions that TTB has taken as part of a future audit on the use of OICs in fiscal year 2020. Also, please note that *Use of Collection Procedures and Offers in Compromise to Collect Revenue* (job code A-BT-13-008) will be removed from our Monthly Status Report.

We appreciate the courtesies and assistance provided by your staff. If you have any questions, please contact me at (202) 927-5400 or Sharon Torosian, Audit Director, at (617) 223-8640.

cc: Elisabeth Kann, TTB Assistant Administrator, External Affairs/Chief of Staff
Tim Marsh, TTB Audit Liaison