IRS employees were found to be willfully tax noncompliant.

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The Internal Revenue Service (IRS) mitigated proposed terminations in over 60 percent of cases involving willful tax noncompliance by IRS employees and did not clearly identify reasons why some employee terminations were mitigated, according to a new report by the Treasury Inspector General for Tax Administration (TIGTA), which oversees the IRS.

The overall objective of this review was to determine whether the IRS had an effective process in place to address willful violations of tax law by its employees.

TIGTA found that, over a 10-year period (Oct. 1, 2003 through Sept. 30, 2013), 1,580 IRS employees were found to be willfully tax noncompliant. While RRA 98 states that the IRS shall terminate employees who willfully violate tax law, it also gives the IRS Commissioner the sole authority to mitigate cases to a lesser penalty. Over this 10-year period, 620 employees (39 percent) with willful tax noncompliance were terminated, resigned, or retired.

For the other 960 employees (61 percent) with willful tax noncompliance, the proposed terminations were mitigated to lesser penalties such as suspensions, reprimands, or counseling.

TIGTA's review found that in some cases, employees with similar violations received different discipline. In cases that were mitigated, the files included mitigating factors as well as evidence that violations of tax law were willful; however, the basis for the Commissioner's decisions to mitigate were not clear.

Some employees had significant and sometimes repeated tax noncompliance issues, and a history of other conduct issues. Moreover, management had concluded that the employees were not credible. Nonetheless, the proposed terminations were

management has proposed be terminated," he added.

TIGTA recommended that the IRS Commissioner amend existing policy on how Section 1203 cases are handled to include a requirement to document the analysis of evidence and the basis for the decision on whether or not to mitigate penalties to something less than termination.

In its response, the IRS agreed with TIGTA's recommendation, noting it plans to review existing procedures to document the analysis of evidence and the basis for its decisions, and will consult with its General Legal Services on potential improvements to the transparency of the mitigation process while not interfering with the Commissioner's authority. In addition, the IRS has subsequently advised TIGTA that it has begun to document the analysis of evidence and the basis for the decision on whether or not to mitigate penalties for 1203 cases to something less than termination.

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