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As the “gig economy” continues to gain steam in the U.S., the IRS is lagging behind, according to a new report from the Treasury Inspector General of Tax Administration (TIGTA). The report focuses mainly on the classification of workers for payroll tax purposes (“Improvements to the SS-8 Program Are Needed to Help Workers and Improve Employment Tax Compliance,” Ref. No. 2018-30-077, 9/19/18).

The gig economy, also referred to as the “sharing economy,” is the environment where workers engage in temporary or part-time jobs, often fueled by smartphone apps and online platforms. It could be anything from driving your car for Uber or Lyft to renting out space on Airbnb to caring for elderly people or pets. A recent article in *Forbes* states that more than one-third of the country’s workers, or about 57 million individuals, is currently participating in the gig economy. This number is only expected to grow.

Of course, the trend leads to potential tax complications. Typically, gig economy participants are treated as independent contractors, as opposed to employees, but each situation is different. The tax stakes are high because employers must pay a share of payroll taxes for workers while providing them with the same fringe benefits

offered to other employees. In addition, the gig economy raises other tax issues,

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In the new report, TIGTA assessed the efficiency of the SS-8 Program, based on the IRS form used to determine the employment classification of workers. It also examined the effectiveness of referrals of businesses to the IRS Employment Tax Examination function and whether the program has adopted a strategic approach for worker classification issues relating to the gig economy.

Here's what TIGTA found: Although there are a large number of workers participating in the gig economy, the SS-8 Program doesn't track Form SS-8 submissions from gig economy workers. The program provides guidance for other types of workers but lacks guidance about workers in the gig economy.

TIGTA identified 15 gig economy cases that were mishandled due to the lack of guidance. The cases were held without action for an average of 524 days. Then the SS-8 Program mistakenly determined that no decision could be made on the cases because the gig economy businesses were afforded Section 530 relief, which prevents the IRS from addressing past and future worker misclassification.

In addition, TIGTA found that the Employment Tax Examination function did not receive any referrals from the SS-8 Program for potential examination from October 2014 through April 2018. Furthermore, the SS-8 Program doesn't process SS-8 requests timely enough for the determinations to be useful to workers filing requests for assistance. TIGTA also found that the program didn't render timely decisions for workers in 129 of the 189 determinations reviewed and 26 of the 66 opinions reviewed.

TIGTA recommends that the IRS take the following steps:

- Create guidance and training for gig economy Form SS-8 requests;
- Evaluate which function would be best to identify cases for referrals;

- Evaluate whether businesses are complying with determinations and consider

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to www.treasury.gov/tigta/auditreports/2018reports/201830077fr.pdf.

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