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Jason Bramwell • Sep. 06, 2023

The question in the title of this article is one the Treasury Inspector General for Tax Administration (TIGTA) recently tried to answer for some members of Congress who asked the IRS watchdog to evaluate employees moving between large accounting firms and the IRS, often referred to as the "revolving door."

In its report, TIGTA said the objective of the review was to assess the IRS's processes and procedures to identify and address potential conflicts of interest regarding tax administration matters involving large corporations, including big accounting

employees from the Large Business and International Division, Office of Chief Counsel, and Independent Office of Appeals) received income from a large accounting firm or a large corporation either prior to joining, during their time at, or after leaving the IRS.

Of these 496 employees:

- 241 had income from a large accounting firm (184 current employees and 57 former employees—some executives at the IRS who were among the 57 former employees received retirement income from a large accounting firm during their time at the IRS, and they disclosed this retirement income on their financial disclosures).
- 255 had income from a large corporation (177 current employees and 78 former employees).

However, TIGTA said it "found no direct correlation between the employees' work assignments and the company or firm from which they came or left for in the private sector." But TIGTA did identify four Office of Chief Counsel non-executive employees who charged time to a private letter ruling in which the taxpayer's representative was the same large accounting firm that the employee recently worked for before joining the IRS or left the IRS to join. While not a direct correlation, TIGTA said this can raise impartiality concerns.

The report states:

> There is nothing inherently wrong with or prohibitions on individuals moving in and out of the private sector to public service, as the movement between sectors can contribute to the career

> development of personnel and improved organizational

> entities or individuals. Processes to address this risk should include restrictions to protect Governmental processes from abuse, but should not be so onerous that the Government can no longer attract the highly talented individuals it needs for positions in public service. This requires a balance of competing public interests. To address this risk, the IRS relies on its employees, including executives, to self-report potential conflicts of interest for themselves as well concerns relating to other employees potentially violating ethical standards or rules of conduct.
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> When we discussed our observations with the IRS, management stated that to successfully conduct audits of large corporations, the IRS must rely on experienced agents with strong tax and accounting skills. Outside of the IRS, prospective employees with tax expertise generally come from accounting firms, law firms, or in-house tax departments of all sizes. As such, to recruit experienced tax professionals, the IRS must draw from these sources of outside tax expertise.

Lawmakers seek to end "corrupt schemes"

The TIGTA review stems from a request made to the Treasury Department early last year from Sen. Elizabeth Warren (D-MA) and Rep. Pramila Jayapal (D-WA) to investigate the cozy relationship Treasury has had with the Big Four accounting firms and RSM US through the years. A *New York Times* investigation in September 2021 found at least 35 examples of big public accounting firm tax lawyers who left to join the Treasury's tax policy office or other government positions and then were

According to a *New York Times* article in February 2022, Warren and Jayapal saw enough in the responses to their questions by the firms to ask the Treasury Department in a letter to look into the matter.

They said in their letter to Treasury:

> In response to these revelations, we wrote to the Treasury Department and America's five biggest accounting firms—Deloitte, Ernst & Young, KPMG, PwC, and RSM—to better understand the scope of these corrupt schemes. The responses were disappointing, with none of the firms providing full and complete information about the roles of their employees in government service or the rewards that the firms, their clients, and their employees obtained from this service.
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> Firms offered a number of excuses for their failure to provide information. One indicated that they "do not track this information in the normal course of … business" and told us that they were "precluded by legal, confidentiality, and privacy considerations from sharing data regarding specific personnel, clients, and compensation." Another indicated that they "treat as confidential client information and the nature of our client representations." Others gave no explanation whatsoever for their refusal to provide information necessary to determine if key tax policies were affected by their employees' conflicts of interest.

> Collectively, the five firms did tell us that, since January 1, 2001, at

> Secretary for Tax Policy. The firms also confirmed that many of the individuals who went through the revolving door and returned to the private sector received significant promotions: for example, one left as a Senior Manager and returned as a Managing Director; another left as a Managing Director and returned as a Principal; and another left as a leader of the firm's Washington Tax Team and returned as a Partner.
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> [...]
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> Given the troubling nature of the companies' responses, their weak policies and lack of transparency, and the ongoing risk to the public interest from this behavior, we write to urge you to open an investigation into this revolving-door scheme.

After its review, TIGTA made two recommendations to the IRS to ensure that employees who work on private letter rulings are aware of the disclosure requirements for conflicts of interest, and that General Legal Services develops a process and procedure to track and aggregate data based on the types of advice given in response to concerns raised.

The IRS agreed with both recommendations. IRS management noted that they have reinforced the impartiality rule, revised the 2023 ethics briefing, and plan to revise the annual ethics training for financial disclosure filers. The IRS will also review current reporting capabilities and case processing procedures to identify a means to track and aggregate data, according to TIGTA.

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