

## **IRS USE OF FEDERAL LAW ENFORCEMENT TECHNIQUES**

The Internal Revenue Service Criminal Investigation (CI) Division uses different investigative techniques to help fight financial crimes related to tax administration. These techniques include undercover operations and informants.

### **Undercover Operations**

A CI undercover operation allows an IRS criminal investigator to assume a covert identity to gain evidence or information relating to the criminal activities under investigation. The undercover technique is a limited tool used only when information cannot be obtained by any of the other investigative techniques. Undercover operations are used in less than 5 percent of the cases. In Fiscal Year 1997, only 162 undercover operations were approved. A single undercover operation can encompass multiple subjects, or individuals, under investigation.

CI uses undercover operations during investigations of illegal activities such as narcotics trafficking, money laundering, fraudulent tax return preparation, tax refund fraud, and the skimming of business profits.

Potential undercover investigators are carefully selected. The qualifications of potential investigators include personal and job-related experience, background evaluation, psychological analysis and special skills such as a foreign language. Criminal investigators must have a minimum of five years investigative experience and complete two weeks of extensive formal training before being considered for an undercover assignment. Investigators are evaluated annually to continue their assignment to the undercover program.

### **Requests for and Reviews of Undercover Operations**

1. Undercover operation requests are made in writing by an IRS criminal investigator as a result of either an ongoing investigation or allegations of significant criminal activity.

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2. Requests must include the information showing:
  - the subject of an investigation is in violation of the tax and/or money laundering law
  - alternatives considered that resulted in choosing the undercover technique as the best enforcement tool
  - expected results
  - an action plan
  - estimated costs and time.
  
3. The request is reviewed at the district level by:
  - CI Group Manager
  - CI Branch Chief
  - CI Division Chief
  - IRS District Counsel
  - IRS District Director
  
4. The request is reviewed at the regional level by:
  - IRS CI Regional Undercover Program Manager
  - IRS CI Regional Director of Investigations

Undercover operations not expected to exceed six months or \$10,000 are approved at this point. These operations make up 60 percent of CI's undercover activities.
  
5. If the project is expected to exceed six months in duration and/or \$10,000 in expenditures, the request is reviewed at the national level by an undercover review committee and approved by the Assistant Commissioner CI. The undercover review committee consists of:
  - two senior CI officials,
  - the Assistant Chief Counsel (Criminal Tax)
  - a representative from the Department of Justice.

All undercover requests considered by the committee must have a letter from the United States Attorney supporting the request.

#### Monitoring the Undercover Operation

1. Once an undercover operation is approved, no significant deviation from the written objective and/or action plan may be taken without the approving official's consent.

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2. The Regional Undercover Program Manager continuously monitors and reviews ongoing undercover operations.
3. Every three months, the Regional Undercover Program Manager submits a written report on the operations to the IRS District Director, the CI Director of Investigations, the Director, National Operations and the Assistant Commissioner (CI).
4. The IRS CI Headquarters Division also continuously monitors on-going undercover operations.
5. The IRS Internal Audit Division completes financial reviews on the majority of CI undercover operations that exceed six months or \$10,000.

## **Informants**

An informant is an individual who provides the IRS with information about a possible violation of the tax or money laundering laws. Informants are used in fewer than five percent of criminal tax investigations.

### Types of Informants

- Some freely identify themselves and have no objection to being known.
- Other informants request complete anonymity.
- Still others request that their identity be revealed only to the IRS. The IRS estimates that it uses these confidential informants in less than five percent of its investigations.

### Credibility of Informant

Various factors relating to the credibility of the potential informant are considered in selecting an informant. This includes factors such as employment history, criminal history, known associates, tax filing and payment history, reliability of information previously given to the IRS or other law enforcement agencies, and the person's source and means of securing information. In the case of anonymous informants, the information must be reviewed and considered on its own merit.

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### Approvals

An agent must have written authorization before directing an informant to gather evidence. Requests for authorization are reviewed by:

- CI group manager
- CI branch chief
- CI division chief

The IRS District Director approves the use of the informant.

### Monitoring of Approved Informants

Semi-annually:

- the IRS Chief CI Division evaluates the continuing use and credibility of each active informant, and
- the District Director determines whether to continue, suspend, or end the use of the informant.

Annually:

- A review is made on credibility factors such as employment history, criminal history, known associates, tax filing and payment history, reliability of information previously given to the IRS or other law enforcement agencies and the person's source and means of securing information.

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