



DEPUTY
CHIEF COUNSEL

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

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MEMORANDUM FOR CHIEF COUNSEL EXECUTIVES AND MANAGERS

FROM:

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Deputy Chief Counsel (Operations)

SUBJECT:

Chief Counsel 2014 Report on Professionalism

I am transmitting the seventeenth annual report on Professionalism for the Office of Chief Counsel. The Chief Counsel Directives Manual provides that the office will publish an annual report that will inform employees and the public about the office's actions regarding allegations and evidence of misconduct. This report has been designed to protect privacy rights of employees. Please feel free to share the report with your subordinate managers and employees.

Attachment

OFFICE OF CHIEF COUNSEL 2014 REPORT ON PROFESSIONALISM

The Office of Chief Counsel, Internal Revenue Service, prepares an annual Report on Professionalism to inform employees about the procedures followed and actions taken by the Office with respect to allegations of misconduct and unprofessional conduct. This seventeenth annual report contains data regarding cases opened for the period January 1, 2014 to December 31, 2014.

Background on the Office of Chief Counsel Professionalism Program

The Office of Chief Counsel is committed to maintaining the highest standards of ethical and professional conduct. Through formal training sessions and in daily oversight and management activities, the Office seeks to ensure that all employees adhere to the letter and spirit of the Tax Court Rules of Practice and Procedure, the ABA Model Rules of Professional Conduct, the Office of Government Ethics Standards of Conduct, the Treasury Department's Rules and Supplemental Standards of Conduct, and that the Office as a whole maintains the highest standards of professionalism, honesty, and fair play.

The Chief Counsel's Professionalism Program was established in August 1998. The Program is designed to ensure that the Office fully complies with Treasury directives, that all allegations of misconduct are promptly and thoroughly investigated, and that in all instances employees are treated in a fair and uniform manner. It established uniform procedures for handling allegations or evidence of misconduct or unprofessional behavior that does not need to be referred to the Office of Treasury Inspector General for Tax Administration (TIGTA).

Under the Professionalism Program procedures, all allegations or evidence of an employee's serious or significant failure to comply with the accepted standards of legal practice must be referred to the Deputy Chief Counsel (Operations). Matters that must be referred to the Deputy Chief Counsel (Operations) include: non-frivolous allegations of professional misconduct; any ethical violation; failure to protect the statute of limitations; failure to coordinate a legal position with responsible offices; and repeated failures to meet pleading deadlines. The following conduct matters must be referred to TIGTA: all allegations or evidence concerning the possible existence of criminal or other misconduct constituting a violation of law, rules or regulations or mismanagement; gross waste of funds; abuse of authority; substantial and specific threats to public health and safety; and integrity issues (unless otherwise covered by established procedures such as the employee tax compliance, UNAX or EEO programs).

TIGTA Cases – Overview

During 2014, the Office of Chief Counsel received 60 referrals from TIGTA regarding allegations that Counsel employees committed misconduct or violated professional

standards. All 60 TIGTA cases under active consideration in 2014 were closed. The following chart sets forth the disposition of the 60 cases received in 2014, compared with the cases from 2013.

	Calendar Year 2013	Calendar Year 2014
Not Substantiated	15	26
Substantiated	25	34
Undetermined	0	0
TOTAL	40	60

The Office of Chief Counsel took disciplinary action in 32 substantiated cases. In the remaining two cases where no discipline was issued, those employees resigned in lieu of termination prior to the issuance of discipline. The disciplinary actions taken in 2014, compared to that taken in 2013 can be summarized as follows:

Disciplinary Action	Calendar Year 2013	Calendar Year 2014
Counseling	Written: 1 Oral: 20	Written: 0 Oral: 29
Admonishment	1	0
Reprimand	1	0
Suspension	0	0
Resignation in lieu of Termination	2	2
Termination	0	3*
TOTAL	25	34

*Although 3 TIGTA cases resulted in termination, two cases included the same employee.

Additional Disciplinary Action

In addition to the action taken in the 34 substantiated TIGTA cases noted above, Counsel imposed discipline in 43 other cases which were non-TIGTA cases. The table below reflects the actions taken.

Chief Counsel 2014 Disciplinary Actions Report			
Actions Taken	Tax Related	Other	Total
Written Counseling	5	17	22
Admonishment	11	7	18
Reprimand		1	1
Suspension		1	1
Demotion			
Removal	1	0	1
TOTAL	17	26	43

Of the 34 substantiated TIGTA cases and the 43 non-TIGTA cases relating to conduct or performance, disciplinary action was taken in 77 cases, or 100 percent.

Examples/Themes:

In 2014, there were repeated discipline cases involving two main themes:

- Theme #1 – Serious tax misconduct results in termination.
Counsel removed two employees in 2014 for repeated tax misconduct and another employee resigned in lieu of termination when serious tax misconduct was discovered. We have an excellent workforce in Counsel so having three of these cases in the same year is unusual. These cases did not involve isolated or minor infractions. Rather, the misconduct spanned more than two tax years and showed repeated failures to comply with the employees' obligations under the tax laws. Examples of the misconduct include repeated failures to file required returns timely and repeatedly claiming deductions for which the employee was not entitled. Some of these improper actions even occurred in tax years after earlier similar misconduct was addressed. Serious tax misconduct cannot be tolerated in Counsel.
- Theme # 2 – Passwords should not be sent to private email accounts.
This year several employees received written counseling after they sent their work passwords from their Counsel email account to their home email account. Such action is prohibited because it creates a security risk. The IRS has software that will catch employees who do this and a freeze will be put on their account. The IRS cyber security office issues a report about any such incident and that report goes to the highest levels in Counsel. Employees who do this may also be subject to discipline.

Conclusion

The Office of Chief Counsel will continue its efforts to ensure that allegations and evidence of misconduct are promptly reported to the proper officials, that they are thoroughly investigated, and that these matters are handled in a fair and uniform manner.