



DEPUTY  
CHIEF COUNSEL

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

JUN - 3 2016

MEMORANDUM FOR CHIEF COUNSEL EXECUTIVES AND MANAGERS

FROM:

Christopher B. Sterner   
Deputy Chief Counsel (Operations)

SUBJECT:

Chief Counsel 2015 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  
2015 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 eighteenth annual report contains data regarding cases opened for the period January 1, 2015 to December 31, 2015.

**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 2015, the Office of Chief Counsel received 67 referrals from TIGTA regarding allegations that Counsel employees committed misconduct or violated professional standards. Sixty-six TIGTA cases under active consideration in 2015 were closed and one remains pending. The following chart sets forth the disposition of the 66 closed cases received in 2015, compared with the cases from 2014.

	<b>Calendar Year 2014</b>	<b>Calendar Year 2015</b>
Not Substantiated	26	21
Substantiated	34	45
Undetermined	0	0
<b>TOTAL</b>	<b>60</b>	<b>66</b>

The Office of Chief Counsel took disciplinary action in 39 substantiated cases. In the remaining six cases where no discipline was issued, three employees separated during the investigation, two employees were cautioned and one of the referrals had no nexus to employment. The disciplinary actions taken in 2015, compared to that taken in 2014 can be summarized as follows:

<b>Disciplinary Action</b>	<b>Calendar Year 2014</b>	<b>Calendar Year 2015</b>
Counseling	Written: 0 Oral: 29	Written: 1 Oral: 34
Admonishment	0	0
Reprimand	0	0
Suspension	0	3
Resignation in lieu of Termination	2	0
Termination	3*	1
<b>TOTAL</b>	<b>34</b>	<b>39</b>

\*2014 - Although 3 TIGTA cases resulted in termination, two cases included the same employee.

**Additional Disciplinary Action**

In addition to the action taken in the 39 substantiated TIGTA cases noted above, Counsel imposed discipline in 30 other cases which were non-TIGTA cases. The table below reflects the actions taken.

<b>Chief Counsel 2015 Disciplinary Actions Report</b>			
<b>Actions Taken</b>	<b>Tax Related</b>	<b>Other</b>	<b>Total</b>
Written Counseling	0	11	11
Admonishment	1	8	9
Reprimand	0	6	6
Suspension	0	3	3
Demotion			
Removal	0	1	1
<b>TOTAL</b>	<b>1</b>	<b>29</b>	<b>30</b>

Of the 39 substantiated TIGTA cases and the 30 non-TIGTA cases relating to conduct or performance, disciplinary action was taken in 69 cases.

**Examples/Themes:**

In 2015, there were repeated discipline cases involving two main themes:

Theme #1 – Follow the instructions of your supervisors:

- A variety of Counsel employees were disciplined for failing to follow management directions. The disciplinary consequences ranged from admonishments to suspensions. Counsel employees should understand that a manager has the right to ask employees to perform tasks – even tasks that an employee does not want to do or finds unnecessary.

For example, a manager can tell an employee to end a personal phone conversation in order to deal with a work issue. A manager can tell an employee to behave professionally in the workplace. A manager can tell an employee to complete a pre-trial document by a set deadline even if the employee is sure the case will settle. Employees who fail to follow their manager’s instructions can face discipline.

Theme #2 – Don’t send your work passwords to your home email using your Counsel.treas.gov email:

- This year several employees received written counseling after they sent their work passwords to their home email. This started to be an issue in 2014 and continued in 2015. It is inappropriate to send your work passwords via email because it creates a security risk. If you do so using your irscounsel.treas.gov email, the IRS has software which will catch you. You will then be locked out of the system until all passwords are changed and a report about this matter will be

sent to the highest levels in Counsel. Employees who do this will also receive at least a written counseling.

**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.