



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

MEMORANDUM FOR CHIEF COUNSEL EXECUTIVES AND MANAGERS

FROM:

Drita Tonuzi

Deputy Chief Counsel (Operations)

SUBJECT:

Chief Counsel 2018 Report on Professionalism

I am transmitting the twenty-first 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 2018 REPORT ON PROFESSIONALISM

The Office of Chief Counsel, Internal Revenue Service, prepares an annual Report on Professionalism to inform employees and the public about actions taken by the Office regarding allegations and evidence of misconduct and unprofessional conduct. This twenty-first annual report contains data regarding cases opened for the period January 1, 2018 to December 31, 2018.

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 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, and the Treasury Department's Rules and Supplemental Standards of Conduct, and that the Office 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 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). These matters include: non-frivolous allegations of professional misconduct; ethical violations; 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; 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 2018, the Office of Chief Counsel received 36 referrals. Twenty-five of those referrals required a response and 11 were sent for information only with no response required. Of the 25 referrals regarding allegations that Counsel employees committed misconduct or violated professional standards, 11 were unsubstantiated. All 25 TIGTA cases under active consideration in 2018 were closed. The following table sets forth a

comparison of the dispositions of the 27 closed cases received in calendar year 2017, and the 25 closed cases in 2018:

Chief Counsel TIGTA Referral Dispositions		
Disposition	Calendar Year 2017	Calendar Year 2018
Not Substantiated	7	11
Substantiated	20	14
Undetermined	0	0
Pending*	3*	0
TOTAL	30	25

*(Of the 3 pending cases from 2017, one admonishment was issued and two clearance letters)

With respect to the 2018 substantiated cases, the Office of Chief Counsel took action, including discipline (if appropriate), in 11 of the 14 substantiated cases. The remaining three cases where no action was taken involved an employee who separated during the investigation, an incident with no nexus to Counsel employment; and an inadvertent disclosure with the Tax Court, which was remedied pursuant to the Tax Court Rules. The actions taken in 2017, compared to those taken in 2018 can be summarized as follows:

Chief Counsel Actions Report – TIGTA cases		
Action Taken	Calendar Year 2017	Calendar Year 2018
Counseling	Written: 0 Oral: 17	Written: 2 Oral: 5
Admonishment	0	0
Reprimand	1	2
Suspension	0	0
No nexus to employment	1	1
Resigned Before Adjudication	1	1
Other Remedies	0	1
Termination	0	2
TOTAL	20	14

Additional Actions Taken (non-TIGTA cases)

In addition to the action taken in the 14 substantiated TIGTA cases noted above, Counsel took action in 23 other cases that were non-TIGTA cases. The following table reflects the additional actions taken in non-TIGTA cases:

Chief Counsel Actions Report - Non-TIGTA			
Actions Taken	Tax-Related	Other	Total
Written Counseling	1	10	11
Admonishment	2	1	3
Reprimand	1	3	4
Suspension	1	3	4
Demotion	0	0	0
Removal	0	1	1
TOTAL	5	18	23

Examples:

Examples of the more egregious discipline cases include an employee who was arrested due to criminal and illicit conduct. The employee lied to court officials about this criminal conduct, which resulted in an additional charge. The employee was convicted of both charges. The employee also misled Chief Counsel management about the facts surrounding the incident and, as a result, the employee was fired.

In another case, an attorney made false statements to Chief Counsel management regarding the status of work assignments. Due to the false statements and other issues, the employee received a significant suspension. One case involved a clerical employee who received minor discipline for failing to follow management direction. Although the employee provided an explanation for the misconduct, the discipline was deemed appropriate due to the employee's failure to be forthright with management when first approached regarding the conduct. Counsel also continued to experience employees with tax compliance issues. Two discipline cases this year concerned employees who filed tax returns almost one year late.

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.