



DEPUTY
CHIEF COUNSEL

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

AUG 22 2011

MEMORANDUM FOR CHIEF COUNSEL EXECUTIVES AND MANAGERS

FROM:

Christopher B. Sterner
Deputy Chief Counsel (Operations)

SUBJECT:

Chief Counsel 2010 Report on Professionalism

I am transmitting the thirteenth 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 2010 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 thirteenth annual report contains data regarding cases opened and closed for the period January 1, 2010 to December 31, 2010.

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, and 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 2010, the Office of Chief Counsel received 35 referrals from TIGTA alleging that Counsel employees committed misconduct or violated professional standards. Two of these referrals were previously transmitted to the Deputy Chief Counsel (Operations) by

offices within the Counsel organization or other sources. Both matters were directly referred to TIGTA for investigation or other action. The remaining 33 referrals were forwarded to the Deputy Chief Counsel (Operations) by TIGTA, with a request that the Deputy Chief Counsel (Operations) investigate the matter and report back to TIGTA upon final disposition.

Of the 35 TIGTA cases under active consideration in 2010, 33 were closed and 2 remain pending. The following chart sets forth the disposition of the 33 cases closed in 2010, compared with the cases closed in 2009.

	Calendar Year 2009	Calendar Year 2010
Cases Not Substantiated	11	18
Employee Separated Before Review Completed	0 retired 0 resigned	0 retired 0 resigned
Substantiated	28	15
Undetermined	1	0
TOTAL	40	33

The Office of Chief Counsel took disciplinary action in 14 of the substantiated cases and other appropriate personnel actions in the remaining case. The disciplinary actions taken in 2010, compared to that taken in 2009 can be summarized as follows:

Disciplinary Action	Calendar Year 2009	Calendar Year 2010
Counseling	Written: 3 Oral: 2	Written: 1 Oral: 8
Admonishment	0	2
Reprimand	1	1
Suspension	1	2
Removal	0	
Downgrade	0	
TOTAL	7	14

Additional Disciplinary Action

In addition to the action taken in the 14 substantiated TIGTA cases noted above, Counsel imposed discipline in 22 other non-TIGTA cases. The table below reflects the actions taken.

Chief Counsel 2010 Disciplinary Actions Report			
Actions Taken	Tax Related	Other	Total
Written Counseling	2	9	11
Admonishment	1	3	4
Reprimand	2	1	3
Suspension	0	2	2
Demotion	0	1	1
Removal	0	1	1
TOTAL	5	17	22

Of the 15 substantiated TIGTA cases and the 22 non-TIGTA cases relating to conduct or performance, disciplinary action was taken in 36 cases, or 97 percent.

Example cases (TIGTA):

Admonishment – An employee received an admonishment for using their government computer to send emails in a private, non-work related matter that created a false impression that they were acting in an official role in the matters discussed. Sending several emails from a government computer gave the appearance that their position was being used to influence the outcome of the private matters contained in the emails.

Suspension -- An employee received a suspension for conduct unbecoming a Chief Counsel attorney. The employee allowed other non-employees into the building and damage occurred. The employee who gave the individuals access into the building, thereby making the damage possible, was held responsible for their actions even though the employee claimed to be unaware.

Example cases (non-TIGTA):

An employee asked for leave from his manager via email and was told to talk to the manager first about an important case before the leave would be approved. The employee did not talk to the manager and instead left the office and was charged AWOL. Because of a past disciplinary record about time issues, the employee was suspended.

Two employees had a verbal altercation in an open office area. The employees used racial terms to refer to each other during the incident and used profanity. Both employees received 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.