



TIGTA Report Details Backup Withholding Compliance Issues

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President Biden recently announced an aggressive plan to upscale the IRS workforce to combat tax evasion and noncompliance. The proposal would provide \$80 billion in funding to hire nearly 87,000 workers over a period of 10 years, effectively doubling the size of the IRS. The proposal comes as part of a wider effort to secure funding for President Biden's American Families Plan. As noted in a recent study by the Treasury Department, The American Families Plan Tax Compliance Agenda, found [here](#), the difference between taxes owed to the government and taxes actually paid was \$600 billion in 2019 and is expected to rise to about \$7 trillion over the next decade. The study attributes 80% of that tax gap to underreporting, i.e., those that underreport income or overclaim deductions and credits on tax returns. The study attributes an additional 9% of the tax gap to those who fail to file in a timely manner. Of the underreporting group, the largest culprit is classified as income subject to little or no information reporting, which the study states includes nonfarm proprietor income and "other income."

Coincidentally, on May 17th, the Treasury Inspector General for Tax Administration (TIGTA) released its results of a study on backup withholding noncompliance, Backup Withholding Noncompliance and Underreported Employment Taxes Continue to Contribute Billions of Dollars to the Tax Gap, found [here](#). The TIGTA study analyzed information returns for the 2018 tax year and found over 440,000 information returns with missing or incorrect Taxpayer Identification Numbers (TINs), for which the payers failed to backup withhold \$13.3 billion on \$55.6 billion of reported income. The TIGTA study goes on to provide reasons for the noncompliance, pointing out that recent efforts to step up compliance have helped. However, the study indicates that backup withholding noncompliance remains a problem, with Form 1099-MISC (and now Form 1099-NEC) contributing a disproportionate share of that issue, accounting for over 77% of all noncompliant forms filed and almost 99% of all unique payers. As a reminder for readers, Form 1099-MISC, Miscellaneous Income, and Form 1099-NEC, Nonemployee Compensation, capture income not reported under standard Forms W-2, including "other income payments."

President Biden's tax compliance proposal seeks enforcement through an increased IRS workforce, leveraging information that financial institutions already collect to find taxpayers that misreport income, and updating IRS technology and data analytic tools. Notably, the proposal highlights an opportunity that would permit the IRS to require payees to certify their TIN to

payers that issue third-party information reports. Ultimately, it appears that the Treasury has narrowed in on revenue raising measures and may soon have funding under the tax compliance proposals. Thus, payors may need to begin updating their due diligence processes and compliance systems soon in order to avoid penalties.

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