
TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION



The Uncertain Tax Position Statement Does Not Contain Sufficient Information to Be Useful in Compliance Efforts

March 23, 2018

Reference Number: 2018-30-023

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HIGHLIGHTS

THE UNCERTAIN TAX POSITION STATEMENT DOES NOT CONTAIN SUFFICIENT INFORMATION TO BE USEFUL IN COMPLIANCE EFFORTS

Highlights

**Final Report issued on
March 23, 2018**

Highlights of Reference Number: 2018-30-023 to the Internal Revenue Service Commissioner for the Large Business and International Division.

IMPACT ON TAXPAYERS

The passage of the Sarbanes-Oxley Act of 2002 and the development of specific accounting standards, known as Financial Accounting Standards Board Interpretation No. 48, require companies with a Securities and Exchange Commission filing requirement to reserve for, and report, tax uncertainties. The IRS recognized an opportunity to use this newly available information and, beginning in Tax Year 2010, created Schedule UTP, *Uncertain Tax Position Statement*, for Form 1120, *U.S. Corporation Income Tax Return*, filers. Schedule UTP was established to achieve certainty regarding a taxpayer's tax obligations, consistent treatment across taxpayers, and an efficient use of Government and taxpayer resources by focusing on issues and taxpayers that pose the greatest risk of noncompliance.

WHY TIGTA DID THE AUDIT

This audit was initiated to determine whether the IRS has incorporated Schedule UTP into the examination process and is using Schedule UTP information to improve return selection and examination results.

WHAT TIGTA FOUND

Schedule UTP does not contain sufficient information to allow the IRS to achieve the original goals of its use. The lack of detail and specifics related to the concise description of the reported tax position provide little more than a confirmation that certain issues exist. The

weaknesses in the form provide for limited use by examiners and group managers in the field and by Large Business and International Division management and executives to strategically use the form during inventory identification and delivery. Without changes that would expand the details reported on the form, such as requiring more detailed descriptions of the reported tax position or dollar amounts of disclosed positions, the expectations and goals in implementing Schedule UTP will not be realized.

WHAT TIGTA RECOMMENDED

TIGTA recommended that the Commissioner, Large Business and International Division, in coordination with the Department of the Treasury's Office of Tax Policy, consider the feasibility of either modifying Schedule UTP to include information needed to be useful for its intended purpose or removing the Schedule UTP filing requirement.

In response to the recommendation, IRS management plans to, in coordination with the Treasury Department Office of Tax Policy, consider the feasibility of modifying Schedule UTP to include information needed to be more useful for its intended purpose.



TREASURY INSPECTOR GENERAL
FOR TAX ADMINISTRATION

DEPARTMENT OF THE TREASURY

WASHINGTON, D.C. 20220

March 23, 2018

MEMORANDUM FOR COMMISSIONER, LARGE BUSINESS AND INTERNATIONAL DIVISION

FROM: Michael E. McKenney
Deputy Inspector General for Audit

SUBJECT: Final Audit Report – The Uncertain Tax Position Statement Does Not
Contain Sufficient Information to Be Useful in Compliance Efforts
(Audit #201730028)

This report presents the results of our review to determine whether the Internal Revenue Service has incorporated Schedule UTP, *Uncertain Tax Positions Statement*, into the examination process and is using Schedule UTP information to improve return selection and examination results. This audit is included in our Fiscal Year 2018 Annual Audit Plan and addresses the major management challenge of Improving Tax Compliance.

Management's complete response to the draft report is included as Appendix IV.

Copies of this report are also being sent to the Internal Revenue Service managers affected by the report recommendation. If you have any questions, please contact me or Matthew A. Weir, Assistant Inspector General for Audit (Compliance and Enforcement Operations).



***The Uncertain Tax Position Statement Does Not Contain
Sufficient Information to Be Useful in Compliance Efforts***

Table of Contents

<u>Background</u>	Page 1
<u>Results of Review</u>	Page 6
<u>Schedule UTP Does Not Contain Sufficient Information to Allow the Internal Revenue Service to Achieve the Original Goals of Its Use</u>	Page 6
<u>Recommendation 1</u>	Page 17
 Appendices	
<u>Appendix I – Detailed Objective, Scope, and Methodology</u>	Page 18
<u>Appendix II – Major Contributors to This Report</u>	Page 21
<u>Appendix III – Report Distribution List</u>	Page 22
<u>Appendix IV – Management’s Response to the Draft Report</u>	Page 23



***The Uncertain Tax Position Statement Does Not Contain
Sufficient Information to Be Useful in Compliance Efforts***

Abbreviations

DAS	Discriminant Analysis System
FASB	Financial Accounting Standards Board
IMS	Issue Management System
IRS	Internal Revenue Service
LB&I	Large Business and International
TY	Tax Year



The Uncertain Tax Position Statement Does Not Contain Sufficient Information to Be Useful in Compliance Efforts

Background

The passage of the Sarbanes-Oxley Act of 2002¹ and the development of specific accounting standards, known as Financial Accounting Standards Board (FASB) Interpretation No. 48,² require companies with a Securities and Exchange Commission filing requirement to reserve for, and report, tax uncertainties. The Internal Revenue Service's (IRS) Large Business and International (LB&I) Division recognized an opportunity to use this newly available information, and the IRS developed Schedule UTP, *Uncertain Tax Position Statement*, for Form 1120, *U.S. Corporation Income Tax Return*, filers.³

Beginning in Tax Year (TY)⁴ 2010, certain corporations are required to report on Schedule UTP any income tax position taken on their Federal return for which the corporation or a related party has either recorded a reserve for that position for Federal income tax in audited financial statements or did not record a reserve for that position because the corporation expects to litigate the position. Tax positions taken before TY 2010 did not have to be reported in TY 2010 or a later year even if a reserve is recorded in audited financial statements issued in TY 2010 or later. In addition, taxpayers must provide a concise description of the reported tax position on Schedule UTP, which includes a description of the relevant facts affecting the tax treatment of the position and information that can reasonably be expected to inform the IRS of the identity of the tax position and the nature of the issue.⁵

Corporations meeting all other Schedule UTP filing requirements must file Schedule UTP if total assets equal or exceed established thresholds for a given tax year. For TYs 2010 and 2011, the threshold for taxpayers to determine their Schedule UTP filing requirement was \$100 million in assets, decreasing to \$50 million for TYs 2012 and 2013. Beginning in TY 2014 and later, the asset threshold for reporting uncertain tax positions on Schedule UTP decreased from \$50 million to \$10 million. The asset threshold decrease for TY 2014 was the final step of the five-year Schedule UTP filing requirement phase-in.

According to the IRS Commissioner's address to the American Bar Association on September 24, 2010, Schedule UTP was established to achieve:⁶

¹ Pub. L. No. 107-204.

² FASB, FASB Interpretation No. 48, *Accounting for Uncertainty in Income Taxes: an interpretation of FASB Statement No. 109* (June 2006).

³ The Large and Mid-Size Business Division initiated Schedule UTP; however, on October 1, 2010, the division was subsequently realigned and renamed the LB&I Division.

⁴ A 12-month accounting period for keeping records on income and expenses used as the basis for calculating the annual taxes due. For most individual taxpayers, the tax year is synonymous with the calendar year.

⁵ Schedule UTP instructions note that a concise description should not exceed a few sentences.

⁶ Douglas H. Shulman was IRS Commissioner from March 24, 2008, to November 9, 2012.



The Uncertain Tax Position Statement Does Not Contain Sufficient Information to Be Useful in Compliance Efforts

- Certainty regarding a taxpayer's tax obligations sooner rather than later.
- Consistent treatment across taxpayers.
- An efficient use of Government and taxpayer resources by focusing on issues and taxpayers that pose the greatest risk of noncompliance.

In addition, the Commissioner stated that Schedule UTP would allow the IRS to:

- Reduce time to find issues and complete audits.
- Spend more time discussing law rather than looking for information.
- Help prioritize taxpayers for examination.
- Help identify areas of uncertainty and where guidance is needed.
- Help prioritize the selection of issues during audits.
- Obtain key information regarding uncertain tax positions without probing into the complexity of the issue, as it relates to quantifying risk.

The Schedule UTP directive, specifically for the LB&I Division, was to establish a centralized process to review and analyze uncertain tax positions filed by taxpayers. In December 2011, the LB&I Division established a centralized review team responsible for reviewing and determining whether taxpayers' concise descriptions are in compliance with Schedule UTP instructions and guidance.⁷ In addition, the centralized review process is intended to assist in the: 1) selection of issues and returns for audit, 2) identification of reporting trends and gaps in guidance, and 3) determination of the proper treatment of uncertain tax positions taken.

The centralized review team reviews 100 percent of concise descriptions submitted by taxpayers to determine if the descriptions are in compliance with Schedule UTP instructions which require that taxpayers "provide a concise description of the tax position, including a description of the relevant facts affecting the tax treatment of the position and information that reasonably can be expected to apprise the IRS of the identity of the tax position and nature of the issue."⁸

As a result of this review process, the centralized review team has found that the majority of Schedule UTP filers are in compliance with the requirements of the form. In TY 2015, the IRS

⁷ The centralized process for review and analyses of Schedule UTP, which would later include the creation of the centralized review team, was established within the LB&I Division in September 2010.

⁸ Tax positions taken by a corporation on the current year's tax return are reported in Part I, while tax positions taken on a prior year's return are reported on Part II.



The Uncertain Tax Position Statement Does Not Contain Sufficient Information to Be Useful in Compliance Efforts

reviewed approximately 6,100 concise descriptions filed with Schedules UTP and found that 92 percent of all corporate taxpayers filing Schedule UTP were in compliance.⁹

In an effort to educate and provide guidance to taxpayers not in compliance, the IRS mails Letter 5191, *Schedule UTP Education and Outreach Letter*, informing them that a review of their Schedule UTP determined that one or more of their concise descriptions did not meet the requirements set forth in Schedule UTP instructions.¹⁰ Approximately 2,100 letters have been sent since the implementation of Schedule UTP; however, some taxpayers have received multiple letters, as they have not been in compliance with Schedule UTP instructions for multiple years.

Letter 5191 requires no action by taxpayers regarding their Schedule UTP. It simply asks the taxpayers to ensure that their concise descriptions comply with Schedule UTP instructions on any future filings. This letter is the lone tool implemented by the IRS to help improve taxpayer compliance with Schedule UTP filing requirements. There are no penalties for failure to file the Schedule UTP, and *****2*****
*****2*****.

In addition to reviewing concise descriptions for compliance with instructions, the centralized review team manages feedback from the field regarding the usefulness of Schedule UTP information to the examination teams. When a tax return with a Schedule UTP is sent to the field for examination, a link will be sent to the examination group manager receiving the case. This link will contain instructions indicating that feedback must be completed by the examiner assigned to the examination before the examination can be closed.¹¹ Until the feedback by the examination team is completed, a freeze code associated with the feedback prevents the examination case from being closed.

In connection with the implementation of Schedule UTP, the IRS also expanded its policy of restraint as it applies to examinations of tax returns that include a Schedule UTP.¹² The modified policy of restraint allows for taxpayers to be provided protection of privileged information that is being disclosed specifically on Schedule UTP and that this privilege is not being waived as a

⁹ Schedule UTP descriptions that were deemed compliant consist of 68 percent minimally compliant and 24 percent fully compliant. The IRS considers minimally compliant filers to have submitted a Schedule UTP that meets the requirements of Schedule UTP instructions but does not follow the guidance and examples posted on the IRS's website.

¹⁰ Letter 5191 was revised in February 2016 and now lists only the insufficient Schedule UTP concise description numbers and does not include the full text of the taxpayers' descriptions as it had done in the past. Prior to TY 2013, a second notice letter (Letter 5204, *Uncertain Tax Position Second Notice*) was also sent to taxpayers not in compliance with Schedule UTP instructions for a second year; however, this has been discontinued.

¹¹ The group manager is responsible for responding to the feedback if the return is surveyed before assignment. The examiner completes the feedback if the return is surveyed after assignment.

¹² IRS Announcement 2010-76.



The Uncertain Tax Position Statement Does Not Contain Sufficient Information to Be Useful in Compliance Efforts

result of the disclosure.¹³ The modification was made due to stakeholder concerns that disclosure of uncertain positions may have been interpreted as taxpayers waiving their rights associated with the disclosed issues.

Specifically, with regards to Schedule UTP, the modified policy of restraint allows taxpayers to redact the following information from any copies of tax reconciliation workpapers they are asked to produce during an examination:

- Working drafts, revisions, or comments concerning the concise description of tax positions reported on Schedule UTP.
- The amount of any reserve related to a tax position reported on Schedule UTP.
- Computations determining the ranking of tax positions to be reported on Schedule UTP or the designation of a tax position as a Major Tax Position.

These changes limit the questions that can be asked by examiners. More specifically, while examiners can ask about relevant facts of the disclosed issue and how it is treated for tax purposes, examiners cannot ask the taxpayer: 1) to explain the rationale for determining why an issue was uncertain; 2) for information about the hazards of the position; 3) for a supporting analysis for or against the position; or 4) for copies of workpapers used to prepare the schedule, any tax accrual workpapers, or any privileged documents.¹⁴

Examiners are also restricted from inquiring about the makeup of the reserves for uncertain tax positions reported in the financial statements and how they reconcile to the issues reported on Schedule UTP. There is not necessarily a direct correlation between these items. For example, the financial statement reserves might relate to State or foreign uncertain tax positions and other positions that are not required to be disclosed on Schedule UTP. In addition, if taxpayers file a blank Schedule UTP, or if they did not file a Schedule UTP at all, examiners may only request confirmation that there are no issues to be disclosed under Schedule UTP reporting requirements. The guidance also emphasizes that a Schedule UTP, in and of itself, should not be the sole factor in determining whether to pursue the examination of a return.

This review was performed at the LB&I Division Headquarters in Washington, D.C., and field offices in New York City, New York, and King of Prussia, Pennsylvania, during the period February through October 2017. We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

¹³ Privileged information refers to that information that is protected under the attorney-client privilege, Internal Revenue Code Section 7525 tax advice privilege, or the work product doctrine by which a document may be provided to an independent auditor as part of an audit of the taxpayer's financial statements.

¹⁴ LB&I Division Schedule UTP Guidance (February 2016).



***The Uncertain Tax Position Statement Does Not Contain
Sufficient Information to Be Useful in Compliance Efforts***

Detailed information on our audit objective, scope, and methodology is presented in Appendix I. Major contributors to the report are listed in Appendix II.



The Uncertain Tax Position Statement Does Not Contain Sufficient Information to Be Useful in Compliance Efforts

Results of Review

The LB&I Division has implemented Schedule UTP and created a centralized review team responsible for assessing concise descriptions filed on Schedule UTP. Schedule UTP was originally intended to improve issue identification and provide certainty of potential tax issues sooner. However, our interviews with staff who may use the form during examination or inventory identification indicate that, because of the lack of detail and specifics related to the concise descriptions, the schedule only provides for a confirmation that certain issues exist. While the IRS's centralized review team determined that, from TY 2010 through TY 2015, an average of 92 percent of the concise description listed on Schedules UTP are in compliance, the weaknesses in the form provide for limited use by examiners and group managers in the field and also by LB&I Division management and executives to strategically use the form during inventory identification and delivery. Without changes that would expand the details reported on the form, such as requiring more detailed descriptions or dollar amounts of disclosed positions, the expectations and goals in implementing Schedule UTP will not be realized.

Schedule UTP Does Not Contain Sufficient Information to Allow the Internal Revenue Service to Achieve the Original Goals of Its Use

When Schedule UTP was established, its goals included prioritizing the selection of issues during examinations, creating certainty sooner, and reducing the time to find issues and complete examinations. The draft of Schedule UTP as originally proposed included information that would have contained the details necessary to gauge materiality and establish a scope of the disclosed issues. This includes items such as the amount of the reserve, the maximum tax adjustment for each position listed, a description of the rationale and nature of the uncertain position, and the reporting of tax positions for which no reserves were recorded due to accepted administrative practices. Changes made as a result of public comment reduced the information being requested to include the relevant Internal Revenue Code section; taxable year in which the position relates; an indication of whether a disclosed issue is permanent, temporary, or related to a pass-through entity; the specific taxpayer's ranking of the disclosed issue; and "a few sentences" describing the taxpayer's uncertain tax position.

After Schedule UTP was initially proposed, then IRS Commissioner Shulman, in April 2010, referred to Schedule UTP as "a game-changer." He further remarked that the IRS's relationship and responsibility to large corporate taxpayers is changing, stating "we are moving away from what I would describe as a contentious relationship where we spend too much of our time identifying issues, to one where we know the issues from the outset and spend our time engaging



The Uncertain Tax Position Statement Does Not Contain Sufficient Information to Be Useful in Compliance Efforts

on appropriate issues.”¹⁵ Others in the tax industry stated that the issuance of Schedule UTP represented the IRS’s boldest corporate initiative to date for closing the Tax Gap.¹⁶ The release of Schedule UTP highlights the intention of the IRS to closely monitor uncertain tax benefits reported by corporations as a means of closing the Tax Gap.¹⁷ The net Federal Tax Gap, or the difference between Federal taxes collected and Federal taxes owed (due to underreporting, underpayment, and nonfiling), is estimated to be \$406 billion for TYs 2008 through 2010. Underreporting by corporations with assets in excess of \$10 million is estimated to be approximately \$28 billion, or 7 percent of the total Tax Gap.

As originally proposed, Schedule UTP would have required taxpayers to provide a concise description of each uncertain tax position for which the taxpayer (or a related entity) had recorded a reserve in its financial statements and the maximum amount of potential Federal income tax liability attributable to each position. In addition, taxpayers would have been required to disclose any position related to the determination of any U.S. Federal income tax liability for which a taxpayer (or a related entity) had not recorded a tax reserve because they either expected to litigate the position or determined that the IRS had a general administrative practice not to examine the position.

The description of each uncertain tax position on the proposed version of Schedule UTP would have required sufficient detail for the IRS to determine the nature of the issue and also gauge materiality of the issues at hand. To be sufficient, the concise description would need to have contained the following statements.

- The Internal Revenue Code sections that have relevance to the position.
- A description of the taxable year or years to which the position relates.
- That the position involves an item of income, gain, loss, deduction, or credit against tax.
- That the position involves a permanent inclusion or exclusion of any item, the timing of that item, or both.
- Whether the position involves a determination of the value of any property or right.
- Whether the position involves a computation of basis.

As proposed, Schedule UTP would also have required a taxpayer to specify, for each uncertain tax position, the entire amount of U.S. Federal income tax that would be due if the position were disallowed in its entirety as a result of an IRS examination. This amount would have included

¹⁵ Douglas H. Shulman, *Prepared Remarks of Commissioner of Internal Revenue Douglas H. Shulman before the Tax Executives Institute 60th Mid-Year Meeting* (April 2010).

¹⁶ Tax Analyst Editorial Staff, *Examining Investor Reaction to IRS Announcement 2010-9* (May 2010).

¹⁷ Liabilities that represent a taxpayer’s estimate of a disallowed tax positions.



The Uncertain Tax Position Statement Does Not Contain Sufficient Information to Be Useful in Compliance Efforts

the maximum tax adjustment for the position reflecting all changes to items of income, gain, loss, deduction, or credit if the position were not sustained.

The IRS received a large number of responses from its requests for public comment on the proposed Schedule UTP. Some public comments questioned the IRS's authority to require reporting of uncertain tax positions with a corporation's tax return, while others expressed concern with certain aspects of the information the IRS was requesting to be disclosed, such as reporting the amount of the reserve and the maximum potential Federal tax liability for each uncertain tax position. There was public concern that reporting the maximum tax adjustment could lead the IRS to focus on tax positions for which there is the potential for a large adjustment and yet a low probability that the large adjustment may occur.

Public comments also raised concerns that the requirement to identify tax positions, along with the taxpayer's views and assessments of those positions, was inconsistent with attorney-client privilege, the work product doctrine, and the tax practitioner-client privilege.¹⁸ In addition, many public comments expressed concern regarding how the IRS would use the reported information, the interaction of the new reporting requirement with the existing policy of restraint, the additional burden the reporting requirement would place on affected corporations, and the impact the reporting requirement would have on the relationship between the corporation and its advisors or independent auditors and the IRS.

As a result of public comments, the IRS implemented Schedule UTP with the following changes from the proposed version:

- Established a five-year phase-in from TY 2010 to TY 2014 of the reporting requirement based on a corporation's asset size.¹⁹
- Removed the requirement to report the maximum tax adjustment for each tax position.
- Removed the requirement to disclose the reserve amounts associated with each disclosed tax position; instead, taxpayers are instructed to rank their tax positions from highest to lowest based upon the size of the associated reserve amount.
- Removed the requirement to report positions for which no reserve was established because the "expectation to litigate" was clarified to preclude highly certain or immaterial positions.

¹⁸ Attorney-client privilege is the legal privilege that works to keep communications between an attorney and his or her client secret. The work product doctrine protects certain documents crafted by a lawyer in anticipation of litigation. Tax practitioner-client privilege applies to communications between a taxpayer and a Federally authorized tax practitioner if those communications involve the provision of tax advice.

¹⁹ Business taxpayers with assets between \$50 million and \$100 million were required to file Schedule UTP with their TY 2012 return. Business taxpayers with assets between \$10 million and \$50 million were required to file Schedule UTP with their TY 2014 return.



The Uncertain Tax Position Statement Does Not Contain Sufficient Information to Be Useful in Compliance Efforts

- Removed the requirement to report tax positions for which no reserve was created because it is the IRS's practice to not challenge this issue since it was seen as burdensome to the taxpayer with little benefit to the IRS.
- Removed the requirement to include the rationale and nature of the uncertainty in the concise description.

Additionally, to further address concerns of external stakeholders regarding whether such disclosure is needed and could possibly violate a corporation's privilege and work product protection, the IRS made modifications to its policy of restraint. More specifically, as previously discussed, this modification ensured that the IRS would only request information sufficient to identify the issue and relevant facts, and that there would be no requirement to provide further rationale for a reported position or a description of the nature of the uncertainty.

Schedule UTP is generally not useful to examiners

As originally proposed, disclosing details such as the reserve amount and maximum potential Federal tax liability was intended to provide an opportunity for IRS employees to measure the size of a tax position in order to determine where to focus their attention. Removing these details, as well as the requirement to provide other issue-related information within each concise description, has reduced the effectiveness of Schedule UTP. Examiners, managers, and classifiers who we interviewed stated that the concise descriptions on Schedule UTP simply provide a validation of issues that would otherwise be identified during the normal course of the examination process or in reviewing other parts of a corporation's tax return.

For example, during the risk assessment process, group managers or examiners may want to evaluate and consider issues that are disclosed on Schedule UTP, and the examination team may ask the taxpayer for information about the relevant facts affecting the tax treatment of the position and information about the identity of the tax issue. However, under the policy of restraint, the examination team cannot ask the taxpayer to explain the rationale for determining that the issue was uncertain or for information about the hazards of the position or an analysis of support for, or against, the tax position. Nor can the examination team ask the taxpayer for copies of workpapers used to prepare Schedule UTP, tax accrual workpapers, or any other documents privileged under the modified policy of restraint. As a result, the examiner must use other forms and schedules from the return to determine relevance and materiality of the issues disclosed on Schedule UTP. The lack of information and details contained on Schedule UTP has, in most instances, rendered it impractical for the examination team to use it as anything more than a confirmation that certain issues exist.

To evaluate the use of Schedule UTP during examinations, we interviewed 21 employees to obtain perspective from those who conduct examinations on taxpayers that file Schedule UTP.²⁰ Most of those interviewed (20 of 21 employees) stated that the concise descriptions were of such

²⁰ These employees consisted of 11 revenue agents, six group managers, and four specialists.



The Uncertain Tax Position Statement Does Not Contain Sufficient Information to Be Useful in Compliance Efforts

a general nature that the issues being disclosed would have to be identified from review of other forms with the return or through external documents such as financial statements or other documents provided by taxpayers. Additionally, 19 of 21 employees indicated that there was insufficient information on the schedule to assess materiality of the issue and to make a determination as to whether the issue should be examined.

To further evaluate the use of Schedule UTP during examinations, we reviewed a random sample of 33 cases. We selected the cases from a population of closed examinations that indicated the tax return had a Schedule UTP attached. For these cases, we reviewed both the physical workpapers and electronic workpapers contained on the Issue Management System (IMS). Specifically, we reviewed the examination plan, risk analysis, information document requests, and examination logs for each case.²¹ Additionally, we reviewed the Form 4549-A, *Income Tax Discrepancy Adjustments*, and accompanying Form 5701, *Notice of Proposed Adjustment*, to determine if there were adjustments on the issues that had been listed on Schedule UTP. We found that for more than one-half (19) of the 33 examinations reviewed, there was no mention of Schedule UTP in the risk analysis. For the remaining 14 cases, seven cases did make reference to Schedule UTP in the risk analysis (for the remaining seven cases, the risk analysis was not available for our review). Further, we found only one case for which the issues listed on Schedule UTP were included in the examination plan.

The lack of reference to Schedule UTP within examination planning workpapers is consistent with procedures because the IRS does not require revenue agents to notate the use of Schedule UTP to identify issues within the examination planning documents. In response to our results, the IRS noted that Schedule UTP is not likely to be referenced within examination planning documents; rather, other tax forms or schedules are more likely to be referenced because revenue agents are not specifically examining Schedule UTP. So while Schedule UTP may, at times, be used to identify an issue (as documented in seven of the 33 cases we reviewed), revenue agents must use other tax forms, schedules, or information at their disposal to generally determine the materiality of an issue and whether the issue should be examined.

We could not determine with certainty whether the revenue agents used Schedule UTP to identify and select issues for examination. However, for the 33 closed examination cases we reviewed, taxpayers identified 71 uncertain tax positions for which they provided concise descriptions on Schedule UTP. Of these 71 uncertain tax positions, 45 were selected for review by the examination teams. Of these 45 uncertain tax positions that were examined, 22 (49 percent) of 45 resulted in adjustments in the examination. For 36 (80 percent) of the 45 uncertain tax positions selected for review, revenue agents indicated through the Schedule UTP feedback process that the issue would have been identified and selected for examination without the Schedule UTP.

²¹ Only current year tax returns were reviewed for the sample.



The Uncertain Tax Position Statement Does Not Contain Sufficient Information to Be Useful in Compliance Efforts

The IRS's feedback process for Schedule UTP indicates that on average from TY 2010 through TY 2015, 51 percent of feedback responses felt that Schedule UTP had helped to identify and prioritize issues. However, during the same time period, 81 percent of Schedule UTP issues selected for examination would have been selected regardless of the issue being disclosed on Schedule UTP. Figure 1 provides the details of this feedback.

Figure 1: Examination Feedback on Schedule UTP

Case Under Examination – Feedback Responses							
Issue Question: The UTP helped to identify and prioritize the issue in the audit plan?							
	TY 2010	TY 2011	TY 2012	TY 2013	TY 2014	TY 2015	Average
NO	54%	49%	49%	49%	46%	33%	49%
YES	46%	51%	51%	51%	54%	67%	51%
Issue Question: Has the issue been selected for examination? Would the issue have been selected without Schedule UTP?							
	TY 2010	TY 2011	TY 2012	TY 2013	TY 2014	TY 2015	Average
NO	18%	18%	18%	22%	24%	20%	19%
YES	82%	82%	82%	78%	76%	80%	81%

Source: IRS SharePoint Site – UTP Dashboard, July 17, 2017. UTP = Uncertain Tax Position.

The responses to these questions appear inconsistent. Half of respondents reported that Schedule UTP helped to identify and prioritize issues in the audit plan. However, at the same time, the majority of respondents reported that the issues would have been selected without Schedule UTP.

The responses of staff who we interviewed with respect to their use of Schedule UTP were in line with the results of our case reviews, as well as the responses to the *selection* of issues question shown in Figure 1. During our interviews with field personnel, 20 (95 percent) of 21 employees indicated that the issues disclosed on Schedules UTP are identified independently of Schedule UTP. IRS personnel provided that issues are identified through various other forms and schedules attached to the return or from outside sources. The results of our interviews appear to be in line with the results we were provided of an ongoing internal review that noted that nothing new is learned from reviewing Schedule UTP, and that the issues would have been reviewed regardless of whether or not they were disclosed.

In August 2016, an LB&I Division management team began a study to determine whether Schedule UTP has achieved its goals and to make associated recommendations. Although the study was not complete as of December 2017, the management team had interviewed revenue



The Uncertain Tax Position Statement Does Not Contain Sufficient Information to Be Useful in Compliance Efforts

agents assigned to returns with a Schedule UTP to determine the effectiveness of Schedules UTP that have been filed and determine what improvements, if any, should be made to Schedule UTP. The management team concluded early-on that, “in many instances, nothing new is learned from reviewing Schedule UTP and that issues would have been reviewed regardless of disclosure. However, a taxpayer’s disclosure can be useful when an issue is complex or novel.” The management team also noted concerns that the inclusion of issues on Schedule UTP can divert attention from other issues that may be material to the revenue agents during the examination. The management team made several preliminary recommendations, including updating training for revenue agents and updates to Schedule UTP instructions.²²

For any examination, materiality is necessary prior to making a determination as to whether an issue should be examined. The individuals who we interviewed did not feel that the concise descriptions provided sufficient information to make a determination of materiality with regards to the issues that were present. As such, the lack of detail generally associated with the concise descriptions provided on Schedule UTP would necessitate examiners to further evaluate the issues using other information, *e.g.*, other schedules and forms attached to the tax return, taxpayer data from outside the IRS such as forms and schedules filed with the Securities and Exchange Commission, prior examination case files, or other documents provided by the taxpayer, in order to determine if the issue should be selected for examination.

The IRS’s Schedule UTP feedback from field employees indicates that the information disclosed on Schedule UTP was not a significant factor in the decision to survey the tax return for an average of 85 percent of returns surveyed in TYs 2011 through 2015. As shown in Figure 2, this suggests that Schedule UTP does not contribute significantly to the decision to not select taxpayers for examination

Figure 2: Survey of Returns With Schedule UTP

Case Surveyed – Feedback Responses						
Issue Question: Was information disclosed on Schedule UTP a significant factor in your decision to survey this return?						
	TY 2011	TY 2012	TY 2013	TY 2014	TY 2015	Average
NO	76%	87%	93%	90%	91%	85%
YES	24%	13%	7%	10%	9%	15%

Source: IRS SharePoint Site – UTP Dashboard, July 17, 2017. UTP = Uncertain Tax Position.

²² As of June 2017, we were informed that the LB&I Division management team had begun reaching out to external stakeholders to obtain their feedback with regards to Schedule UTP. Additionally, during July 2017, it initiated further training for field employees with regards to Schedule UTP. As of December 2017, a final report of its findings and recommendations has not yet been issued.



The Uncertain Tax Position Statement Does Not Contain Sufficient Information to Be Useful in Compliance Efforts

As supported by case reviews, interviews with field employees, and the IRS's feedback from field employees, Schedule UTP does not appear to have helped the LB&I Division make substantial progress towards the goal of improving issue identification. Examiners are identifying issues elsewhere, and Schedule UTP has become a tool with little information used to confirm the existence of issues that are readily and regularly identified through other means.

Schedule UTP has not been a significant factor in identifying inventory and making strategic decisions

In addition to improving the efficiency and effectiveness of large corporate examinations by enhancing transparency, Schedule UTP was also intended as a tool to assist in prioritizing the selection of issues and taxpayers for examination. However, in discussions with IRS personnel who are responsible for the selection of returns and identification of issues for examination, we found that Schedule UTP is not generally used to prioritize taxpayers for examination.

The LB&I Division uses the Discriminant Analysis System (DAS) to score tax returns for potential compliance risk in order to assist in the determination of which tax returns should undergo examination.²³ We interviewed employees from the LB&I Division's classification teams and a program analyst responsible for programming of the DAS to determine how and if information from Schedule UTP is considered during workload identification and delivery or during tax return selection.²⁴

*****2*****
*****2*****
*****2*****
*****2****. However, because tax returns are prioritized by their potential for tax change and Schedule UTP does not contain information as to the size or amount of the uncertain position, Schedule UTP's use for case selection purposes is limited.

The LB&I Division's corporate classification team uses various sources of tax information for risk assessments, such as tax returns and forms, public records, and prior examination results. During discussions with the team, classification personnel noted that they do not use Schedule UTP to identify issues. They indicated that it would be rare for Schedule UTP to provide information not already known on a return, and information on Schedule UTP only provides for validation of the issues identified through other means, which is consistent with the opinions of the examination teams we spoke with.

Beginning in June 2015, the centralized review team performed a review of the feedback received from employees in the field as well as a trends analysis of the issues disclosed on

²³ The DAS can be used to prioritize LB&I Division corporate returns. The DAS score is based on a predefined set of criteria for the type of return and asset range.

²⁴ The purpose of the DAS is to prioritize LB&I Division corporate tax returns for assignment.



The Uncertain Tax Position Statement Does Not Contain Sufficient Information to Be Useful in Compliance Efforts

Schedules UTP.²⁵ One of the goals of Schedule UTP was to help the IRS prioritize selection of issues/taxpayers for examination and identify areas of uncertainty that require further guidance. However, several important trends associated with the issues reported on Schedule UTP that were identified in this review include:

- Many issues disclosed on Schedule UTP are repetitive because a taxpayer will disclose the same issues year after year.
- Prior year issues disclosed on Schedule UTP are often a result of IRS examinations.
- The materiality of issues disclosed on Schedule UTP varies greatly and is a significant factor when deciding whether the issue should be examined.

Although there were a variety of measures and trends noted as a result of the centralized review team's analysis, there has been limited action taken as a result. We noted the following recommendations:

- Establish an analytical review and tracking process for Schedule UTP disclosures.
- Leverage financial data for Schedule UTP analysis and identification of potential noncompliance and modeling.
- Perform Schedule UTP issue modeling based on tax-related data.
- Clarify Schedule UTP instructions.
- Conduct a research project to identify potential Schedule UTP nonfilers based on Financial Statement Disclosures.

The IRS did complete the recommended research project, which identified potential nonfilers of Schedule UTP by reviewing disclosures of unrecognized tax benefit amounts on Forms 10-K filed by taxpayers and determining the likelihood a Schedule UTP will be included in the taxpayer's corresponding tax return.²⁶ The results of this research project concluded with the campaign proposal to attempt to identify noncompliance with Schedule UTP filing requirements.²⁷ Other actions taken related to the centralized review team's recommendations have also been related to the use of Schedule UTP in assessing potential campaigns. Specifically, Schedule UTP has been used in four proposed campaigns that are still under review within the LB&I Division's campaign approval process. These proposed campaigns use

²⁵ IRS, LB&I Division, *Trends in Unrecognized Tax Positions* (Feb. 2016).

²⁶ The Form 10-K is an annual report required by the U.S. Securities and Exchange Commission that provides a comprehensive summary of a company's financial performance.

²⁷ Currently, the LB&I Division is working to implement an issue-based inventory identification process, referred to as campaigns. Campaigns use data analytics and leverage the entire knowledge of the organization to identify areas of noncompliance. They are intended to identify more productive returns and therefore lessen the burden on compliant taxpayers.



The Uncertain Tax Position Statement Does Not Contain Sufficient Information to Be Useful in Compliance Efforts

Schedule UTP information as an additional tool in comparison with existing data sources, such as publicly filed financial information from the Securities and Exchange Commission and others.

While Schedule UTP is being referenced in these proposed campaigns as an additional tool, IRS management stated that the LB&I Division cannot determine its inventory based on Schedule UTP or any other particular form. Our review of the IRS's use of Schedule UTP provides no indication that Schedule UTP and the limited amount of information it provides will be any more useful in campaigns than it has been in the examination or other workload identification process.

LB&I Division management stated that Schedule UTP appraises them of compliance risk; however, it is apparent that there are better options to identify trends of compliance risk. While Schedule UTP information may be a tool to verify trending issues, the LB&I Division already has the ability to identify and trend compliance issues through the IMS. The IMS was implemented to help management improve strategic decisions and make informed decisions on resource allocations.²⁸ Examiners are required to use the IMS to capture information from their audits, including Uniform Issue List codes for every examined issue for which an adjustment was made. Data captured in the IMS include issue names, adjustment amounts, and tax years for each issue.

While concise descriptions on a taxpayer's Schedule UTP may provide some information related to compliance risk, the tracking codes for Schedule UTP within the IMS are not fully conclusive because only one tracking code can be entered into the system. As such, a tracking code with greater importance or priority will supersede the Schedule UTP tracking code. There have also been indications that examiners are not entering the correct tracking codes for Schedule UTP.

We also discussed the evolving campaign process as related to Schedule UTP with IRS management. IRS management noted that as the campaign process evolves, it may create additional uncertainty on various tax-related issues for taxpayers. The increase in uncertainty may then increase the volume of Schedules UTP being filed and processed. Although this may occur, the extent to which the LB&I Division may create uncertainty as a result of its campaign process is unknown. In addition, the weaknesses associated with Schedule UTP will remain—essentially a lack of information that does not allow the IRS to determine materiality of the issues involved.

Given that Schedule UTP does not appear to have provided improvement in issue identification or in the efficient and effective completion of examinations, it is important for the IRS to be conscious of the costs it may be expending on such results as well as the amount of time it is asking taxpayers to spend in providing the information. The LB&I Division stated that it does not have a specific code with which to track the time spent reviewing Schedules UTP for compliance or for pulling the data into spreadsheets for review. It also does not track the time

²⁸ Treasury Inspector General for Tax Administration, Ref. No. 2016-30-089, *The Large Business and International Division's Strategic Shift to Issue-Focused Examinations Would Benefit From Reliable Information on Compliance Results* (Sept. 2016).



The Uncertain Tax Position Statement Does Not Contain Sufficient Information to Be Useful in Compliance Efforts

spent reviewing and compiling feedback surveys. However, the LB&I Division did provide an estimate of the time spent on these tasks.

The LB&I Division estimates that, from Fiscal Year²⁹ 2012 through Fiscal Year 2015, the centralized review team has expended a mean average of 1,066 hours each year reviewing Schedules UTP, reviewing the results of its analysis, and consolidating and analyzing results of Schedule UTP feedback. Taking a conservative approach, we estimated the costs associated with the centralized review team from Fiscal Year 2012 through Fiscal Year 2015 are between \$49,400 and \$52,800 each year. Considering the number of Schedules UTP reviewed each year, we estimate that the centralized review team expends an average of slightly more than \$20 per Schedule UTP reviewed.³⁰ At the same time, the IRS estimates that it will take taxpayers approximately four hours to complete each Schedule UTP. While there is no cost estimate associated with Schedule UTP specifically, some corporate taxpayers may perceive the burden associated with the Schedule UTP beyond just the cost to complete it. As one commentator noted:

The Service believes that in a self-assessment tax system Schedule UTP presents a fair and appropriate disclosure requirement that will create transparency and uniformity, improve compliance, supplement existing disclosures, and help to identify areas of tax avoidance and evasion. Conversely, the corporate taxpayers and their representatives are concerned that Schedule UTP escalates compliance costs, unfairly shifts the balance of power, increases possibility of audits, provides no benefits to the taxpayer, and undermines the protections allowed by attorney-client privilege, work product doctrine, and section 7525 tax practitioner privilege.³¹

We recognize that there are many variables associated with the centralized review team's responsibilities, such as the fact that feedback is not analyzed unless a return is examined and certain concise descriptions may require less review than others. Although the IRS was unable to provide specific data, we believe our analysis continues to support limited usefulness of Schedule UTP for the IRS.

The IRS needs to consider the value obtained from Schedule UTP and whether its continued use, review, and outreach will result in a benefit to the IRS in improving taxpayer compliance. LB&I Division management noted that improvements to instructions were being considered; however, management was unable to provide proposals or drafts of such changes during our fieldwork. While continually expanding the amount of information being shared by taxpayers may help to clarify a concise description of the issue at hand, the fact remains that approximately

²⁹ Any yearly accounting period, regardless of its relationship to a calendar year. The Federal Government's fiscal year begins on October 1 and ends on September 30.

³⁰ Schedule UTP may include one or more uncertain tax position.

³¹ Ilya Lipin, *Uncertain Tax Positions and the New Tax Policy of Disclosure Through the Schedule UTP*, 30 Va. Tax Rev. 663, 664 (Spring, 2011).



The Uncertain Tax Position Statement Does Not Contain Sufficient Information to Be Useful in Compliance Efforts

81 percent of Schedules UTP include issues that would have been selected irrespective of its disclosure. Due to the fact that examination teams must use other tax forms or available information to determine whether an issue should be examined, it is unclear how changes to instructions would improve the limited use of Schedule UTP in identifying issues or delivering inventory.

Recommendation

Recommendation 1: The Commissioner, LB&I Division, in coordination with the Department of the Treasury's Office of Tax Policy, should consider the feasibility of either modifying Schedule UTP to include information needed to be useful for its intended purpose or removing the Schedule UTP filing requirement.

Management's Response: IRS management stated that they partially agreed with the recommendation. The IRS will, in coordination with the Department of the Treasury's Office of Tax Policy, consider the feasibility of modifying Schedule UTP to include information needed to be more useful for its intended purpose. IRS management stated that they disagreed with the recommendation to remove the filing requirement for Schedule UTP.

Office of Audit Comment: Our recommendation was for the IRS to consider the feasibility of either 1) modifying Schedule UTP to include information needed to be useful for its intended purpose or 2) removing the Schedule UTP filing requirement. Although IRS management stated that they partially agreed, we believe that the proposed corrective action sufficiently addresses our recommendation.



The Uncertain Tax Position Statement Does Not Contain Sufficient Information to Be Useful in Compliance Efforts

Appendix I

Detailed Objective, Scope, and Methodology

Our overall objective was to determine whether the IRS has incorporated Schedule UTP, *Uncertain Tax Positions Statement*, into the examination process and is using Schedule UTP information to improve return selection and examination results. To accomplish our objective, we:

- I. Reviewed IRS procedures (Internal Revenue Manual, desk procedures, *etc.*) and interviewed IRS officials to determine the controls in place for identifying and verifying that taxpayers are in compliance with Schedule UTP filing requirements. We also identified and obtained training applicable to Schedule UTP for LB&I Division examination employees and the centralized review team.
- II. Requested and obtained copies of all internal research projects that have been completed relative to Schedule UTP. We also interviewed the LB&I Division management internal review team to obtain the objective, goals, and current status of its review.
- III. Determined how the IRS incorporated Schedule UTP into the examination process.
 - A. Assessed the IRS's review of taxpayers' compliance with Schedule UTP by reviewing the centralized review process and the education and outreach efforts of the centralized review team.
 - B. Assessed how Schedule UTP information is being used to identify examination inventory.
 1. Conducted interviews to determine how Schedule UTP is used by the classification team for inventory selection.
 2. Determined whether Schedule UTP information has been incorporated into the scoring models (DAS) or other macro-processes used by the LB&I Division to determine examination potential.
 3. Interviewed individuals responsible for the classification of tax returns for examination and determined how Schedule UTP is evaluated during this process.
 - C. Evaluated how field examiners are using Schedules UTP during the examination process.
 1. Determined whether examiners used Schedule UTP information in risk analysis and identifying issues during audits.



The Uncertain Tax Position Statement Does Not Contain Sufficient Information to Be Useful in Compliance Efforts

- a. Selected a statistically valid random sample¹ of 33 examinations from a population of 680 examinations closed in Fiscal Year² 2016 that were identified as having filed Schedule UTP with Form 1120, *U.S. Corporation Income Tax Return*, on the Treasury Inspector General for Tax Administration's Data Center Warehouse Audit Information Management System. We used the following criteria to select our sample: 95 percent confidence level, 10 percent expected error rate, and ± 8 percent precision rate. A contract statistician reviewed our sampling plans and projections. We reviewed Schedule UTP and determined if there was documentation in the paper and electronic case files that the schedule was used during the risk analysis and in the selection of audit issues by the revenue agent, specialist, or group manager.
 - b. Validated and assessed the reliability and completeness of the computer case data by comparing 15 records to IRS Master File³ data on the Integrated Data Retrieval System.⁴ We determined the data were reasonable, complete, and accurate, and therefore sufficiently reliable for the audit's purpose.
 - c. For those cases for which Schedule UTP was used in the selection of audit issues, documented applicable details of these examinations.
2. Interviewed and discussed Schedule UTP usefulness with LB&I Division Field Examination group managers, revenue agents, and specialists during site visits and conference calls. We selected a judgmental⁵ sample which included six group managers, 11 revenue agents, and four specialists to discuss how Schedule UTP was being used during the risk analysis to help prioritize the selection of issues during audits and as a tool during the examination of tax returns.
- IV. Determined how the LB&I Division is measuring the effectiveness of Schedule UTP information and what actions have been taken to address feedback, identify areas of uncertainty, or issue guidance related to disclosed tax positions.
- A. Identified and determined the IRS's goals and objectives related to Schedule UTP.

¹ We conducted a random sample because we wanted each sampled item to have an equal chance of selection.

² Any yearly accounting period, regardless of its relationship to a calendar year. The Federal Government's fiscal year begins on October 1 and ends on September 30.

³ The IRS database that stores various types of taxpayer account information. This database includes individual, business, and employee plans and exempt organizations data.

⁴ The IRS computer system capable of retrieving or updating stored information. It works in conjunction with a taxpayer's account records.

⁵ A judgmental sample is a nonprobability sample, the results of which cannot be used to project to the population.



The Uncertain Tax Position Statement Does Not Contain Sufficient Information to Be Useful in Compliance Efforts

- B. Interviewed staff and reviewed dashboards, procedures, and other information sources to determine the process used to measure the effectiveness of Schedule UTP and make improvements when necessary.
 - 1. Identified and interviewed the staff responsible for compiling, measuring, and reporting on the effectiveness of Schedule UTP.
 - 2. Obtained and reviewed dashboards, procedures, or other sources to identify the metrics and baselines used to measure the effectiveness of Schedule UTP.
 - 3. Reviewed the process for using the goals, objectives, and measures to make adjustments to Schedule UTP and whether the use of Schedule UTP has changed since implementation.
- C. Evaluated feedback provided from internal stakeholders (field examiners/group managers), external stakeholders, and taxpayers related to the use and impact of Schedule UTP.
- D. Determined what actions have been taken to address feedback, identify areas of tax uncertainty, or issue guidance as a result of uncertain positions disclosed on Schedules UTP.
 - 1. Identified and interviewed staff responsible for receiving and compiling results of feedback.
 - 2. Determined the details of taxpayer outreach efforts to clarify guidance based on the uncertain tax positions disclosed within Schedules UTP since TY 2010.
- V. Determined the cost of creating, implementing, and administering Schedule UTP with applicable data available.
 - A. Identified staff responsible for tracking and maintaining cost details related to Schedule UTP.
 - B. Obtained and analyzed the cost information that was available and determined the costs related to the creation, implementation, and administration of Schedule UTP.

Internal controls methodology

Internal controls relate to management's plans, methods, and procedures used to meet their mission, goals, and objectives. Internal controls include the processes and procedures for planning, organizing, directing, and controlling program operations. They include the systems for measuring, reporting, and monitoring program performance. We determined that the following internal controls were relevant to our audit objective: IRS policies and procedures for reviewing and classifying Schedules UTP. We evaluated these controls by interviewing management and field employees responsible for executing the program, reviewing applicable documentation, and reviewing closed examination cases.



***The Uncertain Tax Position Statement Does Not Contain
Sufficient Information to Be Useful in Compliance Efforts***

Appendix II

Major Contributors to This Report

Matthew A. Weir, Assistant Inspector General for Audit (Compliance and Enforcement Operations)
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Donna Saranchak, Lead Auditor



***The Uncertain Tax Position Statement Does Not Contain
Sufficient Information to Be Useful in Compliance Efforts***

Appendix III

Report Distribution List

Commissioner
Office of the Commissioner – Attn: Chief of Staff
Deputy Commissioner for Services and Enforcement
Deputy Commissioner, Large Business and International Division
Director, Compliance Planning and Analytics, Large Business and International Division
Director, Financial Data and Risk Assessment, Large Business and International Division
Director, Office of Audit Coordination



***The Uncertain Tax Position Statement Does Not Contain
Sufficient Information to Be Useful in Compliance Efforts***

Appendix IV

Management's Response to the Draft Report



COMMISSIONER
LARGE BUSINESS AND
INTERNATIONAL DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, DC 20224

February 26, 2018

MEMORANDUM FOR MICHAEL E. MCKENNEY

DEPUTY INSPECTOR GENERAL FOR AUDIT

FROM:

Douglas W. O'Donnell 
Commissioner, Large Business and International Division

SUBJECT:

Draft Audit Report –The Uncertain Tax Position (UTP) Statement
Does Not Contain Sufficient Information to be Useful in
Compliance Efforts (Audit No 2017-30-028)

Thank you for the opportunity to review the attached draft report entitled *The Uncertain Tax Position Statement Does Not Contain Sufficient Information to be Useful in Compliance Efforts* (Audit No 2017-30-028) (the Report).

The Report acknowledges the significant efforts the Internal Revenue Service (IRS) made to develop and implement the Schedule UTP, and to provide taxpayers with education and guidance regarding compliance with the federal income tax laws. In response to the initial public comment process, we significantly modified and reduced the information requested on the final version of the Schedule UTP. The IRS also expanded its policy of restraint for the work product privilege as it may apply to the examination of tax returns that are filed with a Schedule UTP, and it trained all Large Business and International (LB&I) examiners on the appropriate use of Schedule UTP in examinations.

In August 2016, we established a management team to determine the effectiveness of Schedule UTP. The management team provided several recommendations, including improving form filing instructions and updating employee training. Form filing instruction updates are currently in process, and LB&I delivered updated training to approximately 2,500 LB&I compliance personnel in the summer of 2017.

The IRS has taken additional steps to improve the effectiveness of Schedule UTP in response to feedback from the public, including establishing a centralized team to review Schedule UTP filings and creating a "feedback survey" process to obtain employee input. The IRS has leveraged the information gathered from these activities to develop and provide outreach, education and guidance to taxpayers through correspondence notifications (Letter 5191).



The Uncertain Tax Position Statement Does Not Contain Sufficient Information to Be Useful in Compliance Efforts

2

The IRS has used data from the feedback survey to understand how Schedule UTP is being used in the field. The IRS has received, to date, approximately 6,300 Schedule UTP feedback surveys from over 1,650 IRS employees. For example, in over 20 percent of the surveys reviewed, examiners reported that Schedule UTP assisted them in identifying noncompliant returns and unknown issues. In over 50 percent of the surveys reviewed, employees reported that Schedule UTP helped them identify and prioritize issues for examination.

Both the IRS' own review and the Report acknowledge that Schedule UTP can help the IRS confirm previously identified noncompliance. Confirmation of the need to examine an issue can be as important as the initial issue identification in helping examiners determine which issues to focus on during their examinations. Moreover, the Schedule UTP can allow the IRS to see potential issues and trends at the time a tax return is filed, not months or years later. There may be other tools to assist the IRS in identifying which issues on a return to examine – for example, examination data from the Issue Management System (IMS). However, IMS is not real-time data, since it is based on closed examinations. Schedule UTP provides IRS with the most current information to make business decisions.

The IRS believes the due diligence filing requirements of Schedule UTP promote voluntary compliance within the LB&I filing population. The requirement to identify uncertain tax positions is consistent with financial statement reporting and provides taxpayers a mechanism to evaluate filing positions and compliance risk. As with Securities and Exchange Commission reporting requirements for Financial Accounting Standard Board Interpretation 48 (i.e., FIN 48), the knowledge that a reporting entity will be required to specifically report transactions with an analysis determining whether the position is "more likely than not" to be sustained by the taxing authority provides both the IRS and taxpayers with a tool to improve voluntary compliance.

The IRS acknowledges there may be costs incurred in preparing and filing the Schedule UTP¹. The IRS has received approximately 15,000 filings since Schedule UTP was first required in 2010. Given that approximately 20 percent of the time Schedule UTP identifies an unknown issue for the IRS, potential burdens on taxpayers are balanced by improved effectiveness of IRS compliance efforts that benefit all United States taxpayers².

In conclusion, the IRS partially agrees with Recommendation 1. The IRS will, in coordination with the Treasury Department's Office of Tax Policy, consider the feasibility of modifying the Schedule UTP to only include information needed to be more useful for

¹ Reference TIGTA Report at page 16

² LB&I analysis of the 22 UTP issues with adjustments that TIGTA reviewed for this the Report, estimated a total tax effect of \$106,301,390. This represents 22 UTP issues from 15,000 filings.



***The Uncertain Tax Position Statement Does Not Contain
Sufficient Information to Be Useful in Compliance Efforts***

3

its intended purpose. IRS does not agree with the recommendation to remove the filing requirement for Schedule UTP for the reasons stated above.

If you have any questions, please contact me, or a member of your staff may contact Donald Sniezek, Director, Compliance Planning and Analytics at 847-737-6437.

Attachment



The Uncertain Tax Position Statement Does Not Contain Sufficient Information to Be Useful in Compliance Efforts

Attachment

RECOMMENDATION 1:

The Commissioner, LB&I Division, in coordination with the Treasury Department Office of Tax Policy should consider the feasibility of either modifying the Schedule UTP to include information needed to be useful for its intended purpose or removing the Schedule UTP filing requirement.

CORRECTIVE ACTIONS:

IRS partially agrees with Recommendation 1. The IRS will in coordination with the Treasury Department Office of Tax Policy consider the feasibility of modifying the Schedule UTP to include information needed to be more useful for its intended purpose. IRS does not agree with the recommendation to remove the filing requirement for Schedule UTP for the reasons stated within this management response.

IMPLEMENTATION DATE:

Discussion with the Treasury Department Office of Tax Policy regarding the feasibility of modifying the Schedule UTP to include information needed to be more useful for its intended purpose by June 30, 2019.

RESPONSIBLE OFFICIAL(S):

Assistant Deputy Commissioner Compliance Integration

CORRECTIVE ACTION(S) MONITORING PLAN:

IRS will monitor this corrective action as part of our internal management system of controls.