

## **IRS Whistleblower Program Reports Record Payouts in FY 2012**

February 22, 2013

The Internal Revenue Service (“IRS”) Whistleblower Program made public its [FY 2012 Report](#) to Congress on Wednesday, February 13, 2013. Pursuant to section 7623(b) of the Internal Revenue Code, added in December 2006, the IRS is required to pay awards to whistleblowers if the information an individual provides substantially contributes to the collection of tax, penalties, interest, and other amounts when the amounts in dispute are more than \$2,000,000. The Report noted that in FY 2012, the IRS received 332 submissions identifying 671 taxpayers that, based on the face of the submissions, appeared to meet the section 7623(b) criteria. The Report also gave some encouraging news about developments within the IRS Whistleblower Office during FY 2012. First, the staff of the Whistleblower Office doubled in size over the course of the year, from 18 at the beginning of the year to 36 at the end, having absorbed the IRS Information Claims Examination (“ICE”) Unit and added additional staff. Moreover, whistleblower submissions led to the IRS recovering just under \$600 million in FY 2012, leading to over \$125 million in awards paid to whistleblowers (the great majority of which went to UBS whistleblower Bradley Birkenfeld, whose IRS submission was earned him an award of \$104 million). The Report contained discouraging news as well, at least for whistleblowers who are waiting on awards from the program. The IRS admits in its report that it typically takes the agency a number of years to analyze, investigate and/or audit, and collect proceeds. At each stage in the tax administration process, taxpayers have the right to challenge IRS findings, including administrative and judicial appeals, as they should. The IRS notes that the incentive for taxpayers to exercise those rights increases as the amounts in dispute get larger, which can mean a longer timeline for whistleblower submissions alleging larger-dollar noncompliance. Furthermore, the 671 taxpayers identified as meeting the 7623(b) criteria is the lowest figure in a fiscal year since the initiative began in 2007. The Report included an important plea to lawmakers for protection against retaliation for [IRS whistleblowers](#). As the report notes, “Unlike [other laws](#) that encourage whistleblowers to report information to the government, section 7623 does not prohibit retaliation against the whistleblower. ... [W]histleblowers reporting information under section 7623 may have recourse under state law, but federal law does not appear to provide a remedy.” The Report goes on to state that while the IRS is committed to protecting whistleblowers’ identities, it is concerned that adverse court decisions could compromise its ability to protect whistleblower confidentiality, and renews its call for Congress to step in and preempt such an issue through preemptive legislation.