



April 18, 2024

Senator Wyden  
Chairman  
Senate Whistleblower Protection Caucus  
U.S. Senate  
Washington, D.C.

Senator Grassley  
Chairman  
Senate Whistleblower Protection Caucus  
U.S. Senate  
Washington, DC.

**RE: Unnecessary Delays in IRS Whistleblower Awards – Partial Awards/Multiple Action Awards Rule**

Dear Chairman Wyden and Senator Grassley:

On behalf of National Whistleblower Center (“NWC”) I, Siri Nelson, Executive Director, am writes to you in your positions as co-chairs of the Senate Whistleblower Protection Caucus and your roles as Chairman and former Chairman of the U.S. Senate Committee on Finance.

NWC greatly appreciates your joint leadership in support of tax whistleblowers over the years – leadership that has been vital in encouraging whistleblowers to come forward and speak out about tax evasion. NWC was especially heartened by Senator Grassley raising at the April 16<sup>th</sup> Finance Committee hearing the issue of delay in whistleblower awards due to the IRS rule on partial awards/multiple actions in a question to IRS Commissioner Daniel Werfel. Also encouraging was your statement, Chairman Wyden, following Senator Grassley’s question, stating your desire to work with Senator Grassley on these whistleblower matters. We understand from Commissioner Werfel’s response that he will be reviewing the rule on partial awards/multiple actions and will be responding more fully to Senator Grassley’s question.

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The rule of partial awards/multiple actions has been a source of enormous frustration for tax whistleblowers – resulting in many whistleblowers who have provided valuable information to the IRS having to unnecessarily wait years and years for an award. NWC is hopeful that Commissioner Werfel’s review will result in a reversal of this unhelpful rule of partial awards/multiple actions – a rule that discourages whistleblowers from coming forward and is counter to the policy goals put forward by Congress when it amended the IRS whistleblower program in 2006.

To the credit of Commissioner Werfel as well as the Director of the IRS Whistleblower Office (WBO), Mr. John Hinman, the IRS has been engaged in significant positive reforms and improvements to the whistleblower program. NWC applauds the IRS for its good efforts to make the whistleblower program more effective and more welcoming to tax whistleblowers. For those reasons, NWC is optimistic for a good resolution of the issue of partial award/multiple actions raised by Senator Grassley.

To be clear, the partial awards/multiple action award rule is an Internal Revenue Manual-created rule (IRM 25.2.2.6.1(2)) that requires in cases where there are “multiple actions” involving a single taxpayer (stemming from one whistleblower’s submission) that there must be a final determination of all actions as to that taxpayer before an award will be issued. The IRM provides for exceptions to this rule to be granted at 25.2.2.6.1(3) and (4) for the “best interest” of the IRS and to the extent “necessary to efficiently administer the program.” However, in practice, the WBO does not exercise these exceptions – and the IRS has provided no guidance for when it will exercise this exception authority.

Two real-world examples of the partial award/multiple action rule and how the rule operates in practice -- unconscionably delaying whistleblower awards for years -- best illustrates why the partial award/multiple action rule as currently administered needs to be put aside:

**Example 1:** Two whistleblowers came forward in 2013 with information about a major corporation that was improperly deducting bribes and kickbacks. The IRS used the information and conducted an audit of years 1 – 3 that resulted in the disallowance of millions of dollars in deductions – resulting in approximately \$10 million dollars in additional tax. All rights to appeal have concluded and the taxpayer has paid the Treasury in full. The WBO sent the whistleblowers an award letter, stating that the whistleblower’s information was of such great value that the WBO had determined that the whistleblowers should receive the highest award possible (30% of collected proceeds). The WBO stated that the whistleblowers would receive the award after the statute of limitations for appeal had expired on X/X/24. The whistleblowers signed and agreed to the award letter. As the date for the statute of limitations approached, the WBO stated that the award would now be delayed because the IRS was auditing the taxpayer on the same issue for years 4, 5 and 6. The WBO stated that under the partial award/multiple actions rule that an award would now not be issued until the audit for those years 4, 5 and 6 was concluded, all collections made and all rights to appeal were terminated – a process that could easily be 5 years if not more depending on whether the taxpayer appeals any issues in those tax years.

The above example is unfortunately all too common for whistleblowers. The whistleblower's award is delayed for years and years even though a corporate audit cycle is closed, collected and no appeal rights. And, delayed because a new audit cycle was opened on the same issue. Thus, due to the partial award/multiple actions rule, whistleblowers with information about significant tax violations by large corporations are subject to years and years of delay in receiving awards.

**Example 2:** The whistleblower came forward in 2011 with information about a wealthy individual taxpayer (and related entities) who evaded payment of taxes. Several years later, the taxpayer pled guilty to criminal tax evasion and paid a fine of approximately \$10 million dollars in restitution as to tax years 1 – 3 – separately as part of the criminal plea the taxpayer also owed approximately \$30 million in additional restitution. In 2019, the whistleblower received an award letter– receiving a 30% award in recognition of the value of the whistleblower's information about this wealthy tax evader. The 2019 letter also addressed the \$30 million in restitution stating that this amount was also encompassed by the award letter once the restitution was collected – and that the whistleblower would receive 30%. The whistleblower signed and agreed to the award letter. The restitution funds were fully collected several years ago, and the taxpayer has no rights to appeal as to the plea agreement. Yet, the whistleblower has not received the award from the approximately \$30 million in restitution collected. The reason being, the IRS opened a civil examination as to the taxpayer for tax years 1 – X and therefore under the partial award/multiple actions rule – no award can now be issued. This, even though the IRS civil examination will have no impact on the resolved criminal matter -- which is already fully settled, collected and no rights to appeal. The WBO will not make the award payment to the whistleblower on the \$30 million in restitution that it received years ago as long as the civil examination remains open, subject to collections and appeal rights. Thus, the partial awards/multiple action rule has already translated into a delay of years for an award to the whistleblower – with potentially many more years of delay.


For each of these whistleblowers (and many other similarly situated whistleblowers), they have waited over ten years for an award – and thanks to the partial award/multiple actions rule – they are looking at waiting years and years more for an award to be issued.

Prompt payment of awards is critical to the success of the whistleblower award program. Congress has long recognized that ensuring whistleblowers are paid promptly is vital in encouraging whistleblowers to come forward – and delays in award payment were one of the reasons Congress created a mandatory award program in 2006 and established the IRS Whistleblower Office. Delays in awards also undermine the fair and timely administration of the whistleblower program – retirements, memories fade, files get lost. Prompt payment of awards is a win for the whistleblower, a win for Congress' whistleblower policy, and a win for the IRS -- improving administration of the whistleblower program – and most importantly encouraging more whistleblowers to come forward. Nothing encourages whistleblowers to come forward then seeing other whistleblowers receiving awards.

NWC hopes that as the IRS reviews this question of the partial awards/multiple actions awards rule, that the IRS and the WBO arrive at the commonsense answer of issuing awards as soon as possible. NWC greatly appreciates your tremendous work on behalf of tax whistleblowers. Please contact us at [info@whistleblowers.org](mailto:info@whistleblowers.org) with any questions this letter has raised, we would be eager to setup some time to discuss.

Thank you for your consideration and your continued efforts to improve whistleblower protections and strengthen whistleblower programs. We are grateful for the work you do.

Sincerely,

A handwritten signature in black ink, appearing to read "Siri Nelson", written over a horizontal line.

Siri Nelson

*Executive Director*

National Whistleblower Center

cc: John Hinman, Director IRS Whistleblower Office