

Advanced Tools for Representing Clients in IRS Audits

Identifying Critical IRS Red Flags, Preparing for Audit Processes, and Maximizing Recovery on Appeal

WEDNESDAY, DECEMBER 18, 2013, 1:00-2:50 pm Eastern

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- Double-click on the PDF and a separate page will open.
- Print the slides by clicking on the printer icon.

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December 18, 2013

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The information contained herein is of a general nature and based on authorities that are subject to change. Applicability of the information to specific situations should be determined through consultation with your tax adviser.

Today's Agenda

- Introduction
- Discussion of standards
- IRS Landscape
- Responding to the IRS
- Key Mistakes and How to Avoid Them

Introduction

**Treasury Department
Circular No. 230
(Rev. 8-2011)**
Catalog Number 16586R
www.irs.gov

**Regulations Governing Practice before
the Internal Revenue Service**



Rules Relevant To Enrolled Agents

- Circular 230
- Rules of conduct of licensing boards
- Rules of professional organizations
 - National Association of Enrolled Agents (NAEA)
 - National Association of Tax Professionals (NATP)

It All Starts with Circular 230

- Practice before the IRS is governed by Circular 230.

<http://www.irs.gov/pub/irs-utl/pcir230.pdf>

- A working knowledge of this document is critical to successfully representing your clients before the IRS. Circular 230 requires, among other things, that we be competent in our representation.

What Is Circular 230?

- Section 330 of Title 31 of U.S. Code
- Treasury has authority to regulate practice before Treasury and IRS
- Allow for effective tax compliance and administration; increase public confidence in tax professionals
- § 10.53(a): “If an officer or employee of the Internal Revenue Service has reason to believe a practitioner has violated any provision of this part, the officer or employee will promptly make a written report of the suspected violation. The report will explain the facts and reasons upon which the officer’s or employee’s belief rests and must be submitted to the office(s) of the Internal Revenue Service responsible for administering or enforcing this part.”
- Sanctions possible; specified and reported in Internal Revenue Bulletin
 - http://www.irs.gov/pub/irs-utl/newly_revised_final_tax-non_compliance_sanction_guidelines_3.pdf

Circular 230 Requires

- Circular 230 requires that any representative admitted to practice before the IRS demonstrate all of the following:
 - Good Character
 - Good Reputation
 - Necessary qualifications to enable the representative to provide persons valuable service
 - Competency to advise and assist persons in presenting their cases

Selected Topics In Circular 230

- § 10.20 Information to be furnished
- § 10.21 Knowledge of client's omission
- § 10.22 Diligence as to accuracy
- § 10.23 Prompt disposition of pending matters
- § 10.28 Return of client's records
- § 10.29 Conflicting interests
- § 10.33 Best practices for tax advisors
- § 10.34 Standards with respect to tax returns and documents, affidavits and other papers
- § 10.35 Requirements for covered opinions
- § 10.50 Sanctions
- § 10.51 Incompetence and disreputable conduct
- § 10.52 Violations subject to sanction
- § 10.53 Receipt of information concerning practitioner

Selected Topics In Circular 230

- § 10.20 Information to be furnished

A practitioner must:

- Upon “a proper and lawful request,” promptly submit records or information in any matter before the IRS unless the practitioner believes in good faith and on reasonable grounds that the records or information are privileged
- Promptly notify the requesting IRS officer or employee and the practitioner must provide any information that the practitioner has regarding the identity of any person who the practitioner believes may have possession or control of the requested records or information
- Make reasonable inquiry of his or her client regarding the identity of any person who may have possession or control of the requested records or information

Selected Topics In Circular 230

- § 10.21 Knowledge of a client's omission

“A practitioner who, having been retained by a client with respect to a matter administered by the Internal Revenue Service, knows that the client has not complied with the revenue laws of the United States or has made an error in or omission from any return, document, affidavit, or other paper which the client submitted or executed under the revenue laws of the United States, **must advise the client promptly of the fact of such noncompliance, error, or omission.**”

Selected Topics In Circular 230

- § 10.34 Standards with respect to tax returns and documents, affidavits and other papers

“A practitioner may not advise a client to take a position on a document, affidavit or other paper submitted to the Internal Revenue Service unless the position is not frivolous.”

“A practitioner must inform a client of any penalties that are reasonably likely to apply to the client...”

Selected Topics In Circular 230

- § 10.50 Sanctions

“The Secretary of the Treasury, or delegate, after notice and an opportunity for a proceeding, may censure, suspend, or disbar any practitioner from practice before the Internal Revenue Service if the practitioner is shown to be incompetent or disreputable (within the meaning of §10.51), fails to comply with any regulation in this part (under the prohibited conduct standards of §10.52), or with intent to defraud, willfully and knowingly misleads or threatens a client or prospective client.”

Selected Topics In Circular 230

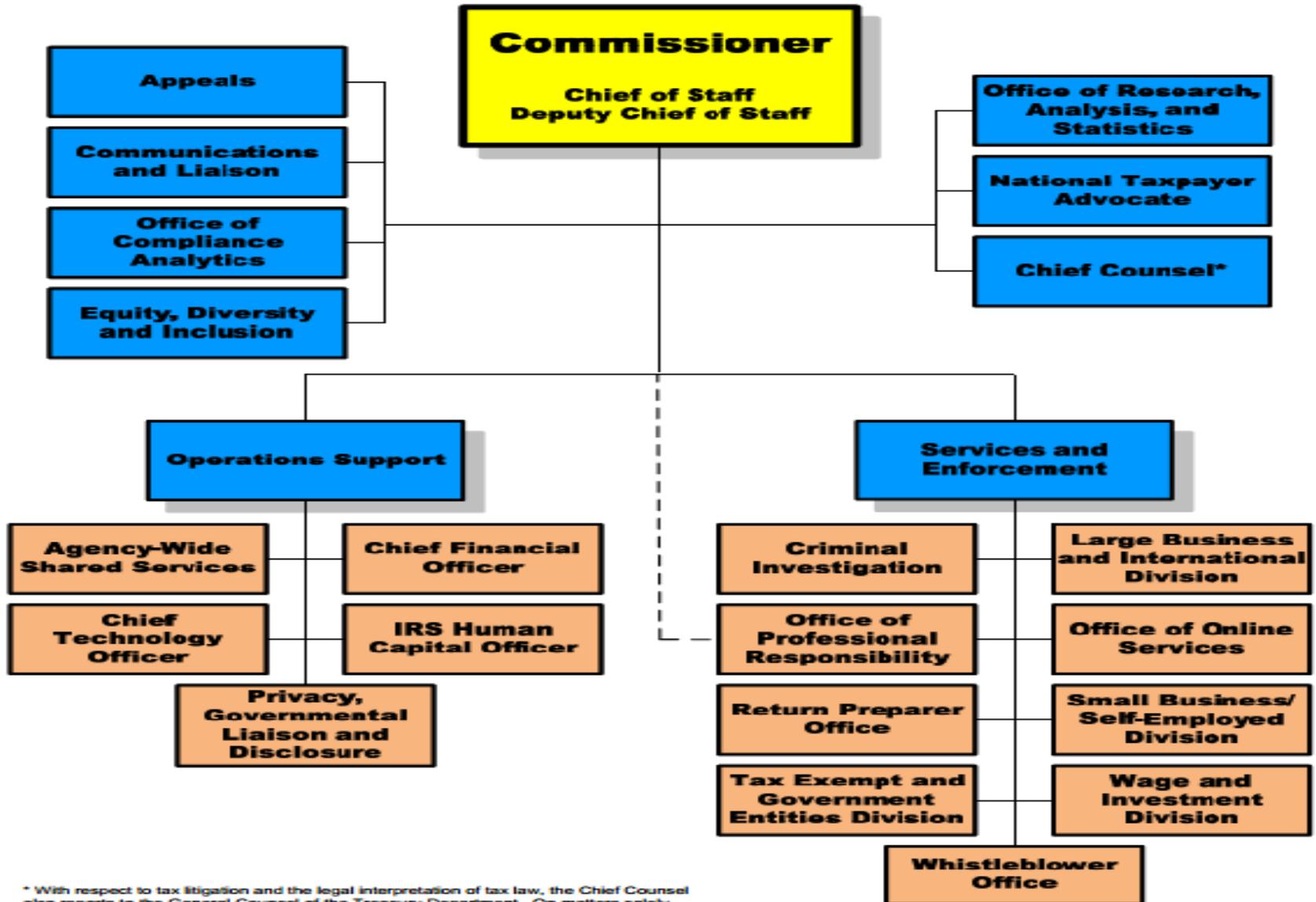
- § 10.51 Incompetence and disreputable conduct

Includes:

- Giving false or misleading information, or participating in any way in the giving of false or misleading information to the Department of the Treasury or any officer or employee thereof, or to any tribunal authorized to pass upon Federal tax matters, in connection with any matter pending or likely to be pending before them, knowing the information to be false or misleading
- Giving a false opinion, knowingly, recklessly, or through gross incompetence, including an opinion which is intentionally or recklessly misleading, or engaging in a pattern of providing incompetent opinions on questions arising under the Federal tax laws

NAVIGATING THE LANDSCAPE

U.S. DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE



* With respect to tax litigation and the legal interpretation of tax law, the Chief Counsel also reports to the General Counsel of the Treasury Department. On matters solely related to tax policy, the Chief Counsel reports to the Treasury General Counsel.

IRS Divisions At-a-Glance

- Four primary divisions:
 - Wage & Investment
 - Large Business and International
 - Small Business/Self-Employed
 - Tax Exempt & Government Entities

Wage & Investment Division

- Mission:
To provide top quality service by helping taxpayers understand and comply with applicable tax laws and to protect the public interest by applying the tax law with integrity and fairness to all.
- Headquarters:
401 W. Peachtree Street, NW
Atlanta, GA 30308
- Management Team:
Peggy Bogadi, Commissioner
Debra Holland, Deputy Commissioner for Support
David Alito, Deputy Commissioner for Operations

Wage & Investment Division Priorities

Strategic Priorities:

The Wage and Investment Division supports the IRS' strategic goals and objectives through initiatives that:

- Address the increasing demand for timely, accurate service, and reducing taxpayer burden
- Address the increasing demand for electronic products and services
- Improve enforcement programs to reduce the risks of non-compliance
- Balance compliance and outreach activities to enhance delivery of EITC initiatives
- Leverage new technology and reengineer business processes to maximize delivery of new business services

Wage & Investment Division Priorities (cont.)

Strategic Priorities

- Ensure human capital strategies contribute to quality and productivity
- Continue to evaluate the tax administration support needs of individual taxpayers as part of its overall management of their portfolio of services and delivery channels
- Increase preventive and corrective actions to reduce vulnerability to identity theft
- Balance compliance and outreach activities to ensure cost effective delivery of the health coverage tax credit

Taxpayer Profile W&I

- Most pay taxes through withholdings
- More than half prepare their own returns
- Most interact with the IRS once a year
- Most receive refunds

Large Business and International

- The Large Business and International (LB&I) Division serves corporations, subchapter S corporations, and partnerships with assets greater than \$10 million. These businesses typically employ large numbers of employees, deal with complicated issues involving tax law and accounting principles, and conduct business in an expanding global environment.

General Division Contact Information:

Large Business & International Division
Internal Revenue Service
1111 Constitution Ave., N.W.
Attn: SE: LB&I
Washington, DC 20224
TEL: (202) 515-4400
FAX: (202) 515-4437

Taxpayer Profile LB&I

- Form 1120 corporations (C corporations), Form 1120S corporations (S corporations), Form 1065 partnerships with assets greater than \$10 Million
- Approximately 210,000 customers

Small Business/Self-Employed Division

- Mission:
Help small business and self-employed taxpayers understand and meet their tax obligations, while applying the tax law with integrity and fairness to all.

- Headquarters:

SB/SE Headquarters
5000 Ellin Road
Lanham, MD 20706

Small Business/Self-Employed Division (cont.)

Strategic Priorities:

- Address the Underreporting Tax Gap
- Address the Underpayment Tax Gap
- Address the Nonfiling Tax Gap
- Improve Service to Customers: Improve Business Processes and Systems; Reduce Burden; Enhance Stakeholder Relations
- Develop Human Capital to: Address Strategies; Promote Productivity; Improve Employee Engagement

Small Business/Self-Employed Division (cont.)

SB/SE Division serves its taxpayer segment through five organizations:

- **Collection** - The mission of Collection is to collect delinquent taxes and secure delinquent tax returns.
- **Compliance Services Campus Operations** - This division oversees operations of the Brookhaven, Philadelphia, Cincinnati, Memphis and Ogden Campuses.
- **Examination** - It is the function of Examination Division to help taxpayers understand and meet tax responsibilities and apply the tax law with integrity and fairness through Field and Office Audit examinations.
- **Specialty Taxes** - Currently there are four market segments for which this division has responsibility. They are Employment Tax, Excise Tax, Estate and Gift Tax and International Tax issues.
- **Communications and Stakeholder Outreach (CSO)** - CSO's mission is to develop and deliver integrated strategic communications and educational products to employees and taxpayers and to our key partners in tax administration including practitioners and industry groups.

Taxpayer Profile SB/SE

- Approximately 57 million taxpayers
 - About 41 million self-employed persons
 - About 9 million small businesses with assets of less than \$10 million
 - About 7 millions filers of employment, excise, estate, and gift returns

Tax Exempt & Government Entities Division

- Mission:

To provide TE/GE customers top quality service by helping them understand and comply with applicable tax laws and to protect the public interest by applying the tax law with integrity.
- TE/GE is comprised of three distinct business divisions:
 - Employee Plans (EP)
 - Exempt Organizations (EO)
 - Government Entities (GE)

Taxpayer Profile TE/GE

- Approximately three million customers that range from small local community organizations and municipalities to major universities, huge pension funds, state governments and participants of complex tax exempt bond transactions
- Pay more than \$220 billion in employment tax and income tax withholding
- Control \$8.2 trillion in assets
- Employee Plans taxpayers represent private and public retirement plans with approximately \$4 trillion in assets
- Exempt Organization taxpayers represent more than 1.6 million tax exempt organizations — including about 400,000 religious organizations — with approximately \$2.4 trillion in assets
- Government Entities taxpayers include outstanding tax exempt bonds with a total value of approximately \$1.8 trillion, 88,000 federal, state and local entities, and over 550 federally recognized Indian tribes

Other Principal IRS Offices

- Office of Chief Counsel
- Taxpayer Advocate Service
- Criminal Investigation
- Appeals
- Return Preparer Office
- Office of Professional Responsibility (OPR)
- Communications and Liaison
- Whistleblower Office
- Privacy, Governmental Liaison and Disclosure

Practitioner Priority Service

- The Practitioner Priority Service (PPS) is your first point of contact for account-related issues
- PPS is a professional support line (1-866-860-4259) staffed by IRS customer service representatives specially trained to handle practitioners' accounts questions. PPS is available to all practitioners with valid third party authorizations, i.e., Forms 2848, 8821 and/or 8655
- PPS service hours are weekdays:
7:00 A.M. to 7:00 P.M. local time (Alaska and Hawaii follow Pacific time)
8:00 A.M. to 8:00 P.M. local time for Puerto Rico

Practitioner Priority Service

- Depending on your response to the initial prompt, your call is routed to one of five PPS locations and routing is based on an evaluation of the lowest expected wait time
- Questions regarding client's individual tax accounts (IMF) are handled by one of three campus sites: Brookhaven, NY; Memphis, TN; and Philadelphia, PA
- Questions regarding client's business accounts (BMF) are handled by two campus sites: Cincinnati, OH and Ogden, UT

Practitioner Priority Service

Services provided by PPS assistors are:

- Locating and applying payments
- Resolving taxpayer account problems on active accounts
- Explaining IRS communications (i.e. notices and letters)
- Providing general procedural guidance and timeframes
- Providing one of the self-help methods to obtain forms and publications
- Providing transcripts of taxpayer accounts
- Provide Forms 1099 and W-2 information
- Securing taxpayer income verification

Practitioner Priority Service

Issues outside the scope of the PPS employees' authority are transferred or referred to the appropriate IRS functions such as:

1. Tax Law questions
2. Accounts assigned to Automated Collection Services (ACS) or Automated Under Reporter (AUR)
3. Accounts assigned to a Revenue Officer or Revenue Agent

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RESPONDING TO THE IRS

Powers of Attorney

- Responding to IRS Notices and Powers of Attorney
 - Completing the Form 2848 is not a clerical exercise
 - Effective representation usually cannot begin until a properly drafted and executed Form 2848 is on file with the IRS

**Power of Attorney
 and Declaration of Representative**

▶ Type or print. ▶ See the separate instructions.

OMB No. 1545-0150

For IRS Use Only

Received by:

Name _____
 Telephone _____
 Function _____
 Date / /

Part I Power of Attorney

Caution: A separate Form 2848 should be completed for each taxpayer. Form 2848 will not be honored for any purpose other than representation before the IRS.

1 Taxpayer information. Taxpayer must sign and date this form on page 2, line 7.

Taxpayer name and address		Taxpayer identification number(s)	
Daytime telephone number		Plan number (if applicable)	

hereby appoints the following representative(s) as attorney(s)-in-fact:

2 Representative(s) must sign and date this form on page 2, Part II.

Name and address	CAF No. _____
	PTIN _____
	Telephone No. _____
	Fax No. _____
Check if to be sent notices and communications <input type="checkbox"/>	Check if new: Address <input type="checkbox"/> Telephone No. <input type="checkbox"/> Fax No. <input type="checkbox"/>
Name and address	CAF No. _____
	PTIN _____
	Telephone No. _____
	Fax No. _____
Check if to be sent notices and communications <input type="checkbox"/>	Check if new: Address <input type="checkbox"/> Telephone No. <input type="checkbox"/> Fax No. <input type="checkbox"/>
Name and address	CAF No. _____
	PTIN _____
	Telephone No. _____
	Fax No. _____
	Check if new: Address <input type="checkbox"/> Telephone No. <input type="checkbox"/> Fax No. <input type="checkbox"/>

to represent the taxpayer before the Internal Revenue Service for the following matters:

3 Matters

Description of Matter (Income, Employment, Payroll, Excise, Estate, Gift, Whistleblower, Practitioner Discipline, PLR, FOIA, Civil Penalty, etc.) (see instructions for line 3)	Tax Form Number (1040, 941, 720, etc.) (if applicable)	Year(s) or Period(s) (if applicable) (see instructions for line 3)

4 Specific use not recorded on Centralized Authorization File (CAF). If the power of attorney is for a specific use not recorded on CAF, check this box. See the instructions for Line 4. **Specific Uses Not Recorded on CAF**

5 Acts authorized. Unless otherwise provided below, the representatives generally are authorized to receive and inspect confidential tax information and to perform any and all acts that I can perform with respect to the tax matters described on line 3, for example, the authority to sign any agreements, consents, or other documents. The representative(s), however, is (are) not authorized to receive or negotiate any amounts paid to the client in connection with this representation (including refunds by either electronic means or paper checks). Additionally, unless the appropriate box(es) below are checked, the representative(s) is (are) not authorized to execute a request for disclosure of tax returns or return information to a third party, substitute another representative or add additional representatives, or sign certain tax returns.

Disclosure to third parties; Substitute or add representative(s); Signing a return; _____

Other acts authorized: _____ (see instructions for more information)

Exceptions. An unenrolled return preparer cannot sign any document for a taxpayer and may only represent taxpayers in limited situations. An enrolled actuary may only represent taxpayers to the extent provided in section 10.3(d) of Treasury Department Circular No. 230 (Circular 230). An enrolled retirement plan agent may only represent taxpayers to the extent provided in section 10.3(e) of Circular 230. A registered tax return preparer may only represent taxpayers to the extent provided in section 10.3(f) of Circular 230. See the line 5 instructions for restrictions on tax matters partners. In most cases, the student practitioner's (level k) authority is limited (for example, they may only practice under the supervision of another practitioner).

List any specific deletions to the acts otherwise authorized in this power of attorney: _____

Reasons for Power of Attorney Rejection

- Missing taxpayer/representative identification information.
- Non-specific tax matter identification (“All Years” or “All future periods” are not acceptable)
- Missing prior Form 2848 to retain the previous representation
- Missing taxpayer signature and/or date or title of officer of the business/company, if applicable
- Missing Designation; Licensing Jurisdiction or Authority; Bar,
- License, Certification, Registration or Enrollment Number or representative signature and/or date

Reasons for Power of Attorney Rejection (cont.)

- Missing taxpayer/representative signature and/or date for revocation or withdrawal
- Unenrolled Return Preparer (designation h) or Registered Tax Return Preparer (designation i) did not prepare the tax return and/or the return is not under Examination

Power of Attorney Contacts

- Forms 2848 for domestic taxpayers are processed at the Memphis and Ogden Account Management Centers

Memphis Accounts Management Center
5333 Getwell Road, Stop 8423
Memphis, TN 38118
Fax (855) 214-7519

Ogden Accounts Management Center
1973 North Rulon White Blvd., Stop 6737
Ogden, UT 84404
Fax (855) 214-7522

Power of Attorney Contacts

- Forms 2848 for international taxpayers are processed at the Philadelphia Accounts Management Center

Philadelphia Accounts Management Center
International POA Requests
2970 Market Street, MS 3-E08 123,
Philadelphia, Pa 19104
Fax (855) 772-3156
Fax (267) 941-1017

RESPONDING TO THE IRS

Audit Selection

- The IRS rarely singles out a taxpayer based on who the taxpayer is, or because IRS thinks the taxpayer has done anything wrong or made an error
- Returns are selected using a variety of methods, including:
 - Random selection and computer screening
 - More than 95% of personal tax audits occur as a result of entirely objective statistical reviews of filed returns
 - "DIF" scores
 - Document matching - when payor records, such as Forms W-2 or Form 1099, don't match the information reported
 - Taxpayers who fail to report all items of income, improperly report items, or omit required W-2s and other return schedules, are more likely to attract attention
 - Related examinations - returns may be selected for audit when they involve issues or transactions with other taxpayers, such as business partners or investors, whose returns were selected for audit

Audit Red Flags

- Making too much money
- Failing to report all taxable income
- Taking large charitable deductions
- Claiming day-trading losses on Schedule C
- Claiming rental losses
- Deducting business meals, travel and entertainment
- Claiming 100% business use of a vehicle

Audit Red Flags (cont.)

- Writing off a loss for a hobby activity
- Claiming the home office deduction
- Taking an alimony deduction
- Running a small business
- Failing to report a foreign bank account
- Engaging in currency transactions
- Taking higher-than-average deductions

Client Gets a Notice

The process begins when a client receives a notice or letter from the IRS. Common notices or letters:

CP2000

CP 14

CP 22A

CP 518

Letter 4903

Letter 566

Automated Underreporter Program (AUR)

- The Automated Underreporter Program generates Notice CP2000
 - Notice advising of a discrepancy between amounts reported on an individual income tax return and data reported by filers of information returns, including all varieties of Forms W-2, 1099, 1098, and 5498
- Before the IRS issues the CP2000, a Tax Examiner manually screens the cases, trying to reconcile the discrepancy
- Notice sent only if the inconsistency is not clarified by that review
- The IRS may propose change to income, deductions, or credits
- A response page is provided allowing the taxpayer to submit a statement explaining the reason for any disagreement with the proposed change and also to provide any supporting documentation for the IRS's consideration

Audit Methods

- The Correspondence Audit
- The Office Audit
- The Field Audit

The Correspondence Audit

- Correspondence audits are conducted by a Correspondence Examination Technician or a Tax Examiner, and can usually be handled through the mail by submitting the requested receipts and/or documentation
- The IRS sends questions, to which the taxpayer or business responds by mail with copies of the requested documents
- Correspondence audits usually deal only with one issue or question by the IRS, which can be dealt with easily
- The correspondence audit issues are identified primarily through tax return entries that appear to be incorrect or to have a high likelihood for a tax adjustment
- This type of audit is very efficient for the IRS and allows broad compliance coverage in that they require much less time to conduct than an audit done in a field by a Revenue Agent or Tax Compliance Officer
- It is a separate program from the information-matching program that issues CP2000 notices (see AUR), although that program also is conducted primarily by mail

The Office Audit

- An office audit is conducted in an IRS office
- An IRS office audit is performed by a Tax Examiner (normally a Tax Compliance Officer) who will request numerous documents and explanations of various income items and/or deductions
- This type of audit often requires a taxpayer to produce all bank records for a period of time for a complete review of the taxpayer's cash flow.
- The return issues are likely to be more complex than those involved in correspondence audits
- Documentation to be reviewed is taken to the IRS, and a face-to-face interview is available and sometimes required
- Office audits targets primarily individual income tax returns, but they often include business schedules

The Field Audit

- A field audit is generally performed by an IRS Revenue Agent at a taxpayer's residence, place of business, or location of the books and records (i.e., taxpayer's representative's office)
- When the IRS agent comes for a field audit, the agent may look at the taxpayer's entire return(s), including any supporting documents
- Field audits often involve businesses that may have a complex set of books and records to be analyzed or reviewed
- A primary element of this type of audit is a face-to-face interview that allows the agent to understand the nature of the business and the items of income and deductions that are shown on the return
- The IRS regularly requests a tour of the taxpayer's business, if the taxpayer is a business, or if the taxpayer is self-employed and claims a home office deduction

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KEY MISTAKES

#1 Not responding to the IRS Audit letter

- Failure to respond is likely to result in the IRS making adjustments to a return which thereby increase tax
- A choice to refrain from responding deserves careful consideration
- Practitioner exposure
 - Circular 230
 - Liability to taxpayer/client

#2 Failing to adequately prepare for the IRS examination

- Review the return(s) selected for examination prior to exam
- Discuss the return(s) with the taxpayer(s)
- Identify any “issues” with the return(s)
- Identify the items the IRS will focus on in the examination
- Gather and review any documents and supporting information
- Plan your approach to the exam
- Know the facts
- Gain an understanding of the law
- Consult with a professional
- Consider implications and discuss with taxpayer

#3 Not understanding the problem or where it is in the process

- Circular 230, § 10.33 - Best practices for tax advisors

“Tax advisors should provide clients with the highest quality representation concerning Federal tax issues by adhering to best practices in providing advice and in preparing or assisting in the preparation of a submission to the Internal Revenue Service...”

- Key questions to ask:
 - Do I understand this case?
 - Where is this case in the process?
 - Do I have the knowledge and expertise to handle this case?

#4 Missed Deadlines

- Deadlines on any IRS correspondence need to be incorporated into your due date management system
- Failure to respond to Information Document Requests (IDRs) may result in discipline under Circular 230
 - § 10.20 Information to be furnished.

“A practitioner must, on a proper and lawful request by a duly authorized officer or employee of the Internal Revenue Service, promptly submit records or information in any matter before the Internal Revenue Service unless the practitioner believes in good faith and on reasonable grounds that the records or information are privileged.”

#5 Lacking Essentials

- Lack of knowledge of IRS procedures
- Lack of knowledge of the facts of the case
- Lack of information control

#6 Improper Documentation

- Documentation with respect to
 - Engagement
 - Failing to use an engagement or representation letter that specifies the services you will (and will not) perform, your fees, etc.
 - Audit preparation
 - Improper or poorly drafted power of attorney
 - Keeping copies of information furnished to the IRS

#7 Poor Client Management

- Failing to understand the client's situation and expectations
- Failing to communicate your expectations of the client
- Failing to keep the client informed on the progress of the case
- Letting the client communicate with the IRS directly

Communicate often, and candidly with your client(s). Let the client(s) know what to expect of the process and of you!

#8 Not Referring Case to Attorney

You should consider a referral relative to:

1. Offers in Compromise
2. Nonfilers
3. Tax Protesters
4. "Eggshell" audits
5. Complex issues of law and/or fact
6. Foreign accounts
7. Deliberate underreporting of income or overstating deductions
8. Fraud cases
9. Criminal investigations
10. Conflicts
11. Penalty relief
12. Murky or confusing statute of limitations
13. Bankruptcy
14. Jeopardy assessments

Other Key Mistakes

- Allowing the IRS to perform the examination at a client's business or home
- Allowing the IRS to meet with the client(s), employees, and others
- Volunteering information the IRS has not asked for
- Falsifying supporting records
- Sweating the "small" stuff
- Trying to make friends with the IRS examiner
- Continuing an examination that is not going well
- Failing to confer with the examiner's manager
- Not agreeing with the examination results, and not exercising the right to appeal the proposed tax assessment
- Overlooking additional expenses/deductions not on the return
- Failing to pursue penalty relief
- Not checking the examiner's computations
- Not taking practitioner considerations into account

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Tips For Ensuring Compliance With Rules Of Conduct And Beyond



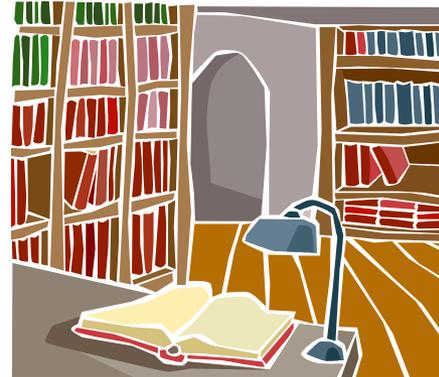
Tips For Avoiding Penalties And Problems

- Use of organizers (signed and dated by clients)
- Use of engagement letters
- Use of checklists
- Review prior returns when preparing current-year return
- Thorough research
- Well-trained and up-to-date personnel
- Keeping clients informed during the year about new tax laws and pronouncements
- Regular office discussions/presentations on penalty provisions and rules of conduct
 - Monthly in-house education on some aspect of rules or new rulings
 - Get all employees involved as presenters
- Ask questions of clients, and document answers
- Use common sense
- Do not take or keep clients that make you uncomfortable, are problematic, etc.

More Tips For Avoiding Penalties And Problems

- Disclose when you do not have substantial authority, but have reasonable basis
- Maintain consistency in practice
- Have ready access to:
 - Any and all rules of conduct to which you and your colleagues are subject
 - Ethics hotline phone numbers
- Have effective continuing education plans
 - Be sure they are relevant (not just what is available before license expires)
- Stay abreast of changes and developments in the law, regulations, etc.
- Infrastructure
 - Procedures to ensure all employees properly registered annually (license, PTIN, etc.)
 - Interview questions to help gauge ethical behavior when hiring employees
 - Employee handbook
 - Procedure for employees to report concerns without recourse
 - Good client relationships

Resources



Resources: IRS

- Circular 230
 - <http://www.irs.gov/taxpros/content/0,,id=175435,00.html>
- Office of Professional Responsibility (OPR)
 - <http://www.irs.gov/taxpros/agents/article/0,,id=176297,00.html>
 - News stories
 - <http://www.irs.gov/taxpros/agents/article/0,,id=100709,00.html>
- IRS Return Preparer Office
 - <http://www.facebook.com/IRStaxpros>
- Return Preparer Regulation links
 - <http://www.irs.gov/taxpros/article/0,,id=221009,00.html>
- IRS Videos
 - <http://www.irsvideos.gov/Professional>
- IRS FAQ for Tax Return Preparers
 - <http://www.irs.gov/taxpros/article/0,,id=218611,00.html>
- IRS info on I.R.C. § 7216
 - <http://www.irs.gov/efile/article/0,,id=188390,00.html>
 - <http://www.irs.gov/taxpros/article/0,,id=218344,00.html>

Resources: AICPA

- Rules of Professional Responsibility
 - <http://www.aicpa.org/InterestAreas/ProfessionalEthics/Pages/ProfessionalEthics.aspx>
- SSTS
 - <http://www.aicpa.org/InterestAreas/Tax/Resources/StandardsEthics/StatementsonStandardsforTaxServices/DownloadableDocuments/SSTS,%20Effective%20January%201,%202010.pdf>
- SSTS interpretations
 - <http://www.aicpa.org/InterestAreas/Tax/Resources/StandardsEthics/StatementsonStandardsforTaxServices/DownloadableDocuments/FINAL-Interps-1-1-and-1-2-SSTS-No-1.pdf>
- I.R.C. § 7216
 - <http://www.aicpa.org/InterestAreas/PersonalFinancialPlanning/Membership/Pages/Implementing%20Section%207216.aspx>

Resources: Other

- National Association of Enrolled Agents (NAEA)
 - <http://www.naea.org/about-naea/governance/code-ethics-rules-conduct>
- National Association of Tax Professionals (NATP)
 - Code of Ethics
 - <http://www.natptax.com/ABOUTNATP/WHATISNATP/Pages/Cod eofEthics.aspx>
 - Standards of Professional Conduct
 - <http://www.natptax.com/AboutNATP/WhatisNATP/Pages/Stand ards ofProfessionalConduct.aspx>
- Chart comparing types of return preparers (Prof. Nellen)
 - http://www.21stcenturytaxation.com/uploads/PTIN_Chart.pdf