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Appeals Independence

Part 1:

What Recent Policy Changes Mean for Examination-Sourced Cases



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IRS Appeals

- Introduction
- Appeals Judicial Approach and Culture (AJAC)
- Changes that strengthen Appeals' policy regarding independence from the IRS' Compliance functions, as well as ensure appeal rights for taxpayers



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Appeals Mission

To resolve tax controversies, without litigation, on a basis which is fair and impartial to both the Government and the taxpayer in a manner that will enhance voluntary compliance and public confidence in the integrity and efficiency of the Service.



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How We Accomplish Our Mission

- Listening and resolving the positions of both sides
- Settlements are based on the merits of relevant arguments and information
- Determinations are often reconciled with the interpretation of the courts
- Final resolutions are impartial to both taxpayers and the government



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Policy Changes

- AJAC clarifies the distinction between the role of Compliance and Appeals
- AJAC emphasizes a quasi-judicial approach so that Appeals hearing officers can focus on their core mission; fair and impartial decision making free from influence



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Policy Changes (continued)

- Appeals hearing officers will focus on their unique and highly specialized role of administrative dispute resolution
- Appeals should receive cases from Compliance that are fully developed and well documented



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Policy Changes (continued)

- Appeals will not raise new issues or reopen issues on which the taxpayer and Compliance reached an agreement during the examination; except instances involving fraud, malfeasance of a material fact



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Policy Changes (continued)

- Taxpayers must fully address issues with Compliance and should only come to Appeals when they have reached an impasse
- Appeals will forward new issues, information or evidence submitted by the taxpayer to the originating function for consideration



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Policy Changes (continued)

- Appeals will attempt to settle a case on factual hazards when the case submitted by Compliance is not fully developed and the taxpayer has presented no new information or evidence



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Scenario Exercise

- We have discussed some of the policy changes
- We will now demonstrate how some of these “typical” changes may occur during a conference
- Keep in mind that these conferences can be done by phone, face-to-face, video conferencing etc.



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Scenario Background

- Future Construction Company (FCC) Sch C audited for the 2010 & 2011 tax years
- Expenses disallowed for lack of adequate substantiation
- 30-day letter issued and TP appealed
- Case before Appeals for consideration



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Participants

- TP engages CPA Jack Stone to represent him before Appeals
- Appeals hearing officer (AO) Goodluck is assigned the case
- Appeals Team Manager is Bubba Wright
- The first conference takes place at the AO's office – WATCH!



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Live Conference

- CPA Stone brings in a box of new information/documents to the conference
- Raises a new issue concerning legal fees
- AO advises CPA that the case will be returned to Compliance for consideration



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Case Back to Appeals

- Case is returned to Appeals
- Revised report sustaining contract labor, home office deduction and travel & entertainment expenses
- AO Goodluck has scheduled a conference with CPA Stone



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Case Back to Appeals (cont.)

- AO Goodluck understands actions taken by Exam and revised report
- Given AJAC policy changes, he poses a hypothetical question to his manager concerning a new issue and seeks the manager's input before holding the next conference



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Conference with ATM

- Issue – What actions do I take if I see that taxpayer's dependent child turned 17 in year Child Tax Credit was claimed (would be \$1,000 adjustment to tax)?
- Policy Statement 8-2 on raising new issues



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Conference with CPA Stone

Issues (expenses) discussed

- Contract Labor
- Travel and Entertainment
- Home-Office Deduction
- Penalty for Failure to File Forms 1099
- IRC 3406 Backup Withholding
- Hazard Settlement



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Agreement Reached

- Cash for Contract Labor allowed considering hazards of litigation
- T&E proposed adjustment is sustained – strict IRC 274(d) requirements not met
- Office-in-the-home expenses sustained-exclusive and regularly requirement not met



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Agreement Reached (cont.)

CPA Stone signs Form 870 AD agreeing to the following:

- 2010 year – Tax \$11,480; Penalty \$2,296; Interest \$1,124 for a total of \$14,900
- 2011 year – Tax \$7,933; Penalty \$1,587; Interest \$381 for a total of \$9,901
- F-t-F Form 1099 Penalties and IRC 3406 Backup Withholding for both years



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How Can We Help You?

- Provide all documents to Exam during the audit
- Your protest should contain a list of the proposed adjustments that you don't agree with and why you don't agree



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How Can We Help You (cont.)?

- Your protest should also contain the facts supporting your position, the law or authority on which you are relying and any relevant case law
- Be prepared to offer a settlement
- Be prepared to compromise based on hazards of litigation



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Alternative Dispute Resolution (ADR)

- Fast Track Settlement
- Mediation
- Early Referral



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ADR Benefits

- High satisfaction rate with the program and outcomes (according to survey results)
- Faster resolution time
- Face-to-face meeting with all parties
- Retain full appeal rights if no agreement reached



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For More Information

Visit Appeals at www.irs.gov/appeals

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Appeals... Resolving Tax Disputes

What Can Appeals Do for You?
The Appeals mission is to resolve tax controversies, without litigation, on a basis which is fair and impartial to both the Government and the taxpayer in a manner that will enhance voluntary compliance and public confidence in the integrity and efficiency of the Service.

Is Appeals the Place for You?

Appeals resolves over 100,000 cases per year.

Are You Ready to Request an Appeals Conference or Hearing?

You can identify and explain the issues in dispute.

Preparing a Request for Appeals

You're ready to file a protest. Here's the information you will need.

What Can You Expect from Appeals?

Appeals will take a fresh look at your case and make a fair and impartial decision.

Appeals Online Self-Help Tools

These are interactive tools that guide you to an outcome based on answers you provide. They deal with some of the most frequently encountered problems, such as: a rejection of a request for innocent spouse relief; denial of a request for abatement of certain delinquency penalties; and rejection of an Offer in Compromise.

Online Videos and Podcasts of the Appeals Process

Check out videos and podcasts on what to expect in the Appeals process.

Forms and Publications about Your Appeal Rights

Official IRS resources about the Appeals process and your rights as a taxpayer...

Careers with Appeals

Rewarding opportunities, excellent benefits, and great people.

Examination

Appealing Examination Issues

Collection

Appealing Collection Issues

Alternative Dispute Resolution

There are ways to resolve tax issues faster.

Technical Guidance-International Programs

Compliance Coordinated Issues, Appeals Coordinated Issues, Appeals Emerging Issues

Art Appraisal Services

Taxpayer cases selected for audit containing artwork are referred to the Art Appraisal Services for review by an Art Advisory Panel.