Examination Representation 101
IRS Operating Divisions

Wage and Investment Division (W & I)

Tax Exempt / Governmental Entities (TEGE)

Small Business / Self-Employed (SB/SE)

Large Business and International Division (LB&I) - formerly known as the “Large & Mid-Size Business Division.”
IRS Operating Divisions

Appeals
Chief Counsel
National Taxpayer Advocate
Office of Professional Responsibility
Criminal Investigation
Whistleblower Office
Postpone the audit if not prepared!

Review and reconcile the taxpayer’s books of account, income statements, balance sheets, general ledgers, summary records of business operations (cash receipts and disbursements journals, sales journals, etc.)
TAXPAYER REPRESENTATION
Pre-Audit Considerations

Consider contacting the IRS examiner in advance of the scheduled examination to possibly streamline or limit the initial scope of the examination.

Review there large, unusual or questionable items in the return.

Review potentially applicable IRS Audit Technique Guidelines.
TAXPAYER REPRESENTATION
Pre-Audit Considerations

Review returns of all related entities and taxpayers

Review returns for other tax years
  – Pattern of errors? (3-year review)

Review related State and local returns

Review prior examination reports, if any
TAXPAYER REPRESENTATION
Pre-Audit Considerations

Evaluate internal controls that might support the accuracy of return information

Sensitive Issues?
- Schedule C taxpayer
- Cash intensive business

Identify all potentially applicable privileges

Meet and discuss your review of all relevant information with the taxpayer before the audit begins
OBJECTIVE: Early Resolution!

Humanize the audit process —
  – Cooperate with the examiner in a timely manner — an audit is not intended as an adversarial process

Avoid misleading information of any kind

Document control — make duplicate copies of documents provided
TAXPAYER REPRESENTATION

The Audit - Interviews

Taxpayer & Preparer
– Written questions in advance?
– Timing? (Near end of the audit)
– Place? (Where is TP comfortable?)

Interview techniques -
– Be comfortable and personable
– Ask for clarity if you don’t understand questions
– Maintain appearance of cooperation throughout
TAXPAYER REPRESENTATION

The Audit

Anticipate tours of business sites

– Knowledgeable individuals present
– Explain business practices
– Should not disrupt business operations
TAXPAYER REPRESENTATION

The Audit

Information Document Request (IDR)

- Timely, narrative responses
- Summons – have there been timely, reasonable responses to the IDR?

Requests to extend the Statute of Limitations?

- How much time is reasonable?
- Request restricted extension?
TAXPAYER REPRESENTATION

The Audit – Indirect methods of Determining Income

Unexplained bank deposit analysis
Expenditures exceed known financial resources
– Cash hoard?
Unexplained increases in net worth
Mark-Up analysis
TAXPAYER REPRESENTATION
The Audit - Badges of Fraud

Conduct during the examination – evasive?
Multiple sets of books & records?
False or duplicate invoices?
Concealment
Check cashing
“Pattern” of errors
TAXPAYER REPRESENTATION

The Audit

Freedom of Information Act Request (FOIA)
- Form – Search “FOIA” at irs.gov
- When to file?
- Where to file? See list of IRS Disclosure Offices at irs.gov

Penalty Considerations
- Reasonable cause – reliance? See IRM 20.1.1 “Introduction and Penalty Relief”
- Disclosure statement – Form 8275
  Don’t get cute!
TAXPAYER REPRESENTATION
Post- Audit, No Agreement with the IRS Examination Findings

Request a conference with the examiner’s manager or supervisor

If IRS issues a “30-Day Letter”:
  – Can request an extension of the 30 day period to respond
  – File a Protest within the referenced 30 day period
Protest must include:

- Taxpayer’s name and address
- A statement that the taxpayer intends to appeal the IRS findings to the Appeals Office,
- Attach a copy of the letter showing the proposed changes and unagreed findings (or the date and symbols from the letter),
- The tax periods or years involved,
- A list of the unagreed changes why there is no agreement together with a statement of supporting facts and law
TAXPAYER REPRESENTATION
Post-Audit, No Agreement with the IRS Examination Findings

– If IRS issues a Notice of Deficiency (90-Day Letter”)

  – NO ABILITY TO EXTEND THE 90 DAY TIME PERIOD

  – A Tax Court Petition must be timely filed with the United States Tax Court within 90 days as stated in the 90 Day Letter, or,

  – If the taxpayer desires to pay the deficiency and proceed with an administrative claim for refund, the deficiency should be paid (followed by the timely filing with the IRS of a claim for refund, etc.)
TAXPAYER REPRESENTATION
Post-Audit, No Agreement with the IRS Examination Findings

– If a timely Protest is filed with the IRS or a timely Petition is filed with the United States Tax Court, the case will be referred to the Office of IRS Appeals for consideration

– See IRS Publication 5 for further information