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Examination Representation 101

The Basics



6/11/2012



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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”**





INTERNAL REVENUE SERVICE

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Appeals
Chief Counsel
National Taxpayer Advocate
Office of Professional Responsibility
Criminal Investigation
Whistleblower Office





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TAXPAYER REPRESENTATION

Pre-Audit Considerations

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.)





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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 the examination

Review large, unusual or questionable items in the return

Review potentially applicable IRS Audit Technique Guidelines





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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

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TAXPAYER REPRESENTATION

The Audit

GOAL - 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





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TAXPAYER REPRESENTATION

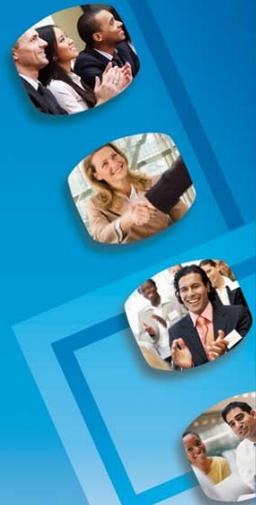
The Audit - Interviews

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





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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 IDRs?

Requests to extend the Statute of Limitations?

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

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TAXPAYER REPRESENTATION

The Audit – Indirect methods of Determining Income

Unexplained bank deposits

Expenditures exceed known financial resources

– Cash hoard?

Unexplained increases in net worth

Mark-Up analysis





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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

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Freedom of Information Act Request (FOIA)

- Form: Search “FOIA” at irs.gov
- When to file?
- Where to file? Internal Revenue Service, Disclosure Scanning Operation - Stop 93A, Post Office Box 621506 Atlanta GA 30362-3006

Penalty Considerations

- Reasonable cause – reliance? See IRM 20.1.1 “Introduction and Penalty Relief”
- Disclosure statement – Form 8275

Don't get cute!





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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





TAXPAYER REPRESENTATION

Protest of the Audit Findings

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

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TAXPAYER REPRESENTATION

Post- Audit, No Agreement with the IRS Examination Findings

If IRS issues a Notice of Deficiency
("90/150 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 90/150 days as stated in the 90/150 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.)

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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

