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[Third Party Communication:

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Number: **202346015**

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**From:** [REDACTED]

**Sent:** Tuesday, April 4, 2023 10:39:14 PM

**To:** [REDACTED]

**Cc:** [REDACTED]

**Bcc:**

**Subject:** RE: RESPONSE: New LTR6519 – P3 (CF34557) Counsel Review Requested DUE COB 4/6/23

Hi [REDACTED],

We've reviewed Letter 6519 and don't believe that it constitutes an examination under IRC 7605.

Under Rev. Proc. 2005-32 (Examination of Returns and Claims for Refund, Credit, or Abatement; Determination of Correct Tax Liability) Section 4.03(1) the following actions by the IRS do not constitute an examination under IRC 7605:

(b) matching information on a tax return with, or preparing a missing return from, other records or information items that are already in the Service's possession; or

(c) considering any records the taxpayer voluntarily provides to the IRS to explain an apparent error on a tax return or to explain a discrepancy between either a filed tax return or a substitute for return and information from third parties that is or may be used for the matching described in (b) . . .

(d)(B) request the taxpayer file a tax return, or if a tax return is incomplete, to explain the criteria for perfecting the tax return, or to solicit the taxpayer's perfection of the tax return; or

(d)(C) verify a discrepancy between the taxpayer's tax return and an information return, or between a tax return and information otherwise in the Service's possession.

Here, Letter 6519 states that the IRS plans to examine the taxpayer's retirement plan within 90 days if the taxpayer does not respond. The letter further asks the taxpayer to review their plan documents and operations to determine if there are any failures or mistakes, and advises the taxpayer on how to fix those failures/mistakes. This seems to fall under Rev. Proc. Section 4.03(1)(d)(B) and (C) where the IRS is asking the taxpayer to verify possible discrepancies in the plan and check if the plan is incomplete (i.e. has failures) in some way, and then explains how the taxpayer can perfect the plan (correct the failures).

The letter also states that the taxpayer may want to voluntarily send in certain documents to substantiate that the plan is qualified and working correctly. This seems to fall under Rev. Proc Section 4.03(1)(c) which allows the IRS to review any records the taxpayer may send in to explain an apparent error, or lack of error, with the plan.

Lastly, for an examination to occur, the IRS must actually examine the taxpayer's books of account. IRC 7605(b). Here, the letter is not requiring the taxpayer to do anything or send in any documents, it is simply advising that the taxpayer should check their plan for failures/mistakes and explains what the taxpayer can do to fix those failures/mistakes. Any documents provided to the IRS will happen voluntarily on the taxpayer's behalf, so there is no examination of books of account.

Please let us know if you have any questions or concerns.

Regards,

[REDACTED]

Attorney  
CC:PA:07

[REDACTED]