



How to plan for and resolve an IRS exam

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Candor. Insight. Results.

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Agenda



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- > **Organization of the IRS**
- > **Before the examination**
- > **IRS examinations**
- > **Issue resolution tools**
- > **Current trends**

Have you ever been audited by the IRS?

Organization of the IRS

Department of the Treasury – IRS

Commissioner Douglas Shulman

Service and Enforcement

Taxpayer Advocate

Appeals and Chief Counsel

Service and Enforcement

| | |
|--|---|
| LMSB Large and Mid-Size Business | SBSE Small Business and Self-Employed |
| W&I Wage and Investment | TEGE Tax Exempt and Government Entities |

LMSB

- > Organized along geographic lines
- > Responsibility for industry related issues
 - > Communications, Technology, and Media
 - > Heavy Manufacturing and Transportation
 - > Financial Services
 - > Retail, Food, Pharmaceuticals, and Health Care
 - > Natural Resources and Construction
 - > Global High Wealth

Income Tax Examination Team

- > Exam hierarchy
 - > Revenue Agent (Team Coordinator), Team Manager, Territory Manager, Director of Field Operations (DFO), Industry Director
 - > Technical Advisors
 - > Field Specialists: International, Engineers, Financial Products, Economists, and Computer Audit Specialists

Before the examination

Taxpayer preparation

- > Document transactions
 - > Consider obtaining affidavits from those involved in the transactions
- > IRS examinations
- > Keep excellent records
- > Review controls
- > Review processes
- > Review policies
- > Record retention
 - > IRC section 6001
 - > Rev. Proc. 97-22 and Rev. Proc. 98-25
- > Research tax application

IRS examinations

- > Exam Revenue Agent
 - > Controls the case and the statute of limitations
 - Retains the authority to determine which issues will be examined
 - Retains the authority to determine what documentation is needed to conduct the exam
 - Manages timelines and any scope and/or depth changes
 - Sets expectations
- > Specialists and Technical Advisors
 - > Engaged by examination team in issue discussions to expedite the resolution process

Exam Revenue Agent

- Review income tax return
- Review prior Revenue Agent Reports (RARs)
- Review transaction documentation
- Conduct internet research
- Prepare IDR #1
- Identify IRS team members
- Identify contact for the taxpayer

Taxpayer

- Review income tax return and prior RARs
- Prepare response to standard IDR #1
- Execute Power of Attorney
- Identify accommodations for IRS

LMSB focus

Quality examinations through
effective planning, execution and
resolution

Quality Examination Process

Goals

- High quality, timely examinations
- Enhanced taxpayer engagement
- Improved compliance

Benefits

- Streamlines processes
- Reduces burden

> Quality Examination Process

- > Planning - a quality examination starts with an effective plan
 - Pre-exam analysis
 - Initial planning meeting (a/k/a opening conference)
 - Subsequent planning meetings
 - Taxpayer orientation
 - Exchange of additional transactional and financial information
 - Finalizing the exam plan
- > Execution - a quality examination depends on effective execution
 - Changes to exam scope
 - Ongoing monitoring
 - Discussion of issues
 - Information Document Request (IDR)

- > Resolution – a quality exam engages taxpayers through resolution of all issues
 - Confirming the facts
 - Engaging specialists and experts
 - Issue resolution strategies
 - Other issues
 - Determining areas of agreement
 - Next/final steps

- > What to expect at Opening Conference
 - > Discuss prior audit results
 - Review prior RARs
 - Agreements reached during prior examinations
 - > Lines of communications and schedules
 - Establish lines of communication
 - Coordinate schedules
 - Exchange information
 - Facilities/accommodations for the IRS team

- > What to expect at Opening Conference (cont'd)
 - > Describe the Quality Examination Process
 - > Document pre-examination agreements
 - > Discuss changes or amendments to original return
 - > Describe rules of engagement and case management strategies
 - > Describe issue resolution tools

- > Opening Conference (cont'd)
 - > Taxpayer interview
 - Transparency and openness are key
 - Comprehensive orientation of operations provided by taxpayer
 - Internal control review
 - Discuss preliminary findings
 - > Information Document Request
 - IDR#1 – submission of the items requested
 - > Tour of business

> Exam progresses

- > Audit plan finalized
- > IDRs issued and answers discussed
- > Specialists may become involved
- > Issues discussed, developed, and/or closed
- > Issues are agreed or unagreed
- > Case management strategies applied
- > Changes to scope of audit
 - New issues
 - Additional years
 - Related returns

- > Conclusion of examination
 - > Notices of Proposed Adjustment (NOPAs) discussed, issued and responded to
 - > Revenue Agent Report (RAR) issued
 - Agreed cases processed
 - Unagreed case - 30-day letter issued/taxpayer has 30 days from date of request to respond

> Hierarchy of communications



- > When to go?
 - > Facilitate getting to the right answer for a case or issue
 - > Promote fairness and consistency in the tax treatment of similarly situated taxpayers or cases
 - > Reinforce the importance of integrity and ethical behavior in all case-related decision making
 - > Potential impact or visibility of an issue
 - > Case not aligned with the right IRS location

Case management strategies

- > Audit plan – timeline
- > IDR log
- > IDR status meetings
- > Follow up IDRs
- > Third-party contact
- > Issue discussion meetings

***How prepared do you feel
you would be after
learning what an
examination entails?***

Issue resolution tools

Issue resolution tools

- > Pre-Filing Agreements (PFA)
- > Fast-Track Settlement (FTS)
- > Industry Issue Resolution (IIR)
- > Early Referral to Appeals
- > Team Manager settlement

Pre-Filing Agreements (PFA)

- > Process for reaching agreement on a contentious issue through a cooperative effort prior to filing a return
- > Can be used for up to 5 years
- > Rev. Proc. 2009-14 provides guidelines
- > \$50,000 fee to participate; nonrefundable if accepted in the program
- > Either party can withdraw anytime for any reason
- > Closing agreement is signed by both parties

The process

- > File a request with the Team Manager
- > Request must include all items listed in Rev. Proc. 2009-14
- > Team Manager reviews and forward with a recommendation to the PFA Program Manager
- > PFA Program Manager gets a recommendation from Counsel and Technical Advisors
- > The Industry Director makes the decision to accept or not
- > The taxpayer is notified of a decision in approximately 4 to 6 weeks
- > Upon acceptance and payment of fee, team will conduct an orientation
- > Agreements are reached on procedures, information sharing, and timeline

Fast-Track Settlement (FTS)

- > FTS offers the taxpayer a way to resolve audit issues during the examination process within 120 days.
- > FTS reduces the overall LMSB Appeals process time.
- > Open to all LMSB taxpayers with open exams
- > Available for most factual and legal issues
- > Confidential process; if agreements are not reached Appeals notes are not shared with the examination team

The process

- > Either party may suggest use of FTS and both parties must agree.
- > Issue must be fully developed.
- > Trained Appeals Officer or Appeals Team Case Leader acts as mediator.
- > No formal protest is required.
- > Either party can withdraw at anytime.
- > Taxpayer retains traditional appeals rights.
- > Prohibition on ex-parte communications by Appeals does not apply.

Excluded items

- > Designated for litigation
- > Competent Authority requested
- > Whipsaw
- > Not consistent with sound tax administration
- > Excluded by Chief Counsel Notice or equivalent publication

Industry Issue Resolution (IIR)

- > Resolves frequently disputed or burdensome tax issues that affect a significant number of taxpayers through publish guidance
- > IRS solicits suggestions for issues that need guidance from industry associations, practitioners, and individual taxpayers.
- > The resolution team consists of IRS, Chief Counsel, and Treasury personnel to analyze relevant information and recommend guidance.
- > Rev. Proc. 2003-36 contains information on how to submit an issue.

Early Referral to Appeals

Rev. Proc. 99-28

- > Identify issue early in exam for development and elevation to Appeals.
- > Both parties must agree that elevation and resolution of the issue will more quickly complete the examination.
- > Closing Agreements are executed if agreement is reached.
- > Taxpayer may request mediation if agreement is not reached.

- > Delegation Order 4-25
 - > Appeals issues written settlement guidelines for Technical Advisor coordinated issues
 - > Proposed settlement and Closing Agreement approved by the Technical Advisor or International Field Assistance Specialist and Appeals
 - > Authority delegated to Team Managers

***Have you utilized an issue
resolution tool?***

Current trends

NOL

- > Five-year carryback for loss years 2008 and 2009
- > Applies to all taxpayers except TARP recipients
- > Election must be filed stating that taxpayer elects to apply IRC section 172.
- > Election must be attached to the loss year return and carryback form.
- > IRC section 172(b)(1)(H) and Rev. Proc. 2009-52
- > NOL carrybacks extend examination time.

Joint Committee

- > Applies to examination refunds of \$2 million or greater
- > Summation of all open tax year refunds
- > Requires the review and approval of the Joint Committee on Taxation
- > Tentative allowances are refunded before a report is submitted to the Joint Committee for review and approval
- > Joint Committee review and approval for tentative allowances occurs after the examination

International reporting

- > International withholding
- > Other international reporting
- > Joint international exams

Global High Wealth Industry

- > Created in the Fall of 2009
- > The Global High Wealth Industry conducts tax compliance reviews of high wealth individuals and the networks of enterprises and entities they control, so the Service can better assess the risks such arrangements pose to tax compliance and the integrity of our tax system.

***Are you aware of the
international withholding
rules?***

Questions and comments

Contact information



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