

Communicating with the Internal Revenue Service Through the Office of Practitioner Liaison

By Christopher M. Reimer, LL.M

A tax practice is unique in that it takes an integrated team to adequately represent our clients. On the front lines, accountants answer most of our individual and small business clients' questions regarding taxes, and also file their annual returns. The tax attorney is often brought in after controversy with the IRS arises. By enhancing communication with our clients (and our clients' advisors) we can provide better tax planning representation, and perhaps help to avoid tax controversy altogether. Throughout every stage of tax representation it is important to try to effectively communicate with the IRS. However, communicating with the IRS can be a thorny task.

The IRS has undergone numerous reorganizations over the years, and in 2005 the Small Business/Self Employed division created the office of Stakeholder Liaison. In a nutshell, the Stakeholder Liaison office attempts to establish relationships with organizations representing small business and self-employed taxpayers. The Wyoming State Bar is one such organization. Since 2005, Tom Long and I have represented the Wyoming State Bar in front of the office of Stakeholder Liaison. During that time we have been involved in semi-annual telephone conferences with various IRS employees, including the Wyoming Stakeholder Liaison Area Manager (Northwest Division), and representatives from other areas of the IRS. For example, during our last conference a representative from Treasury Inspector General for Tax Administration (TIGTA) made a presentation on current IRS enforcement activity with respect to Circular 230. Circular 230 governs practice before the IRS (accountants and attorneys alike), and includes some provisions similar to our own Wyoming Rules of Professional Conduct (conflicts of interest, fees, advertising, etc.). A further discussion of Circular 230 and how it may impact your practice is beyond the scope of this article, but I encourage practitioners who are interested to refer to the materials of the "High End Estate Planning" CLE I co-presented at the 2006 Wyoming State Bar Summit and Judicial Conference, part of which was devoted to how Circular 230 impacts estate planners.

The office of Stakeholder Liaison has offered to those of us that participate in the semi-annual telephone conferences the opportunity to present "systemic" problems facing our clients so that there is a channel of communication between taxpayers and IRS. Systemic problems are managed by an Issue Management Resolution System (IMRS). Because our firm does not normally prepare returns, we have seen few "systemic" issues affecting taxpayers in general, but we have notified the IRS regarding some ambiguous instructions with respect to release of federal tax liens. If any member of the Bar knows of a "systemic" problem that should be brought to the attention of the IRS, please let us know.

Tom Long and I also participate in the office of Stakeholder Liaison listserv, and periodically receive notice of various IRS pronouncements, including Headliners (alerts or reminders to taxpayers and tax professionals about tax matters and issues), Tax Talk Today (a monthly Internet broadcast discussing tax topics), Phone Forums, (periodic telephone seminars on tax topics), and Fact Sheets (periodic updates on statistics, etc.). Members of the Bar who would like to be added to the e-mail listserv should let us know.

On December 12, 2006, the IRS held a Wyoming Practitioner Liaison meeting in Cheyenne. The morning session included an update on recent changes to tax law. Ann Logan from the Wyoming Taxpayer Advocate Service (TAS) made a presentation on her office's powers to stop or compel IRS action with respect to individual taxpayers. TAS is a division of the IRS with the authority to issue Taxpayer Assistance Orders to stop collection, force adjustments to taxpayer accounts, etc. Deb Chrisman, Northwest Area Manager for the office of Stakeholder Liaison made a presentation on the "tax gap" (a/k/a untaxed income) and the IRS plan to combat underreported income, inflated expenses, and non-filing. Lois Deitrich, an IRS examination manager from Denver, spoke on audit procedures, and how the IRS is attempting to streamline audit costs and focus on return items that are substantially incorrect or items that have material impact on tax due. She also spoke generally on how returns are audited, and gave examples of particular return items that are blatant audit flags seen by her office lately.

During the afternoon session of the meeting Marilyn Boyce, an IRS Fraud Technical Advisor from Denver, spoke about her office's role in investigating return preparer fraud. The program through which she works helps to build civil cases and injunctions against abusive return preparers, as well as referrals to the Criminal Investigation Division of the IRS. She also summarized some of what the IRS refers to as the "Dirty Dozen" Tax Scams for 2006, including a series of fraudulent "phishing" e-mails. In this case, identity thieves will send e-mails to taxpayers indicating they are "under audit," and will include a link to an official-looking website that solicits social security and/or credit card numbers.

Greg Jaramillo, a representative from TIGTA, explained how the Office of Investigations within TIGTA investigates IRS employee misconduct, as well as investigations of practitioners on behalf of the IRS Office of Professional Responsibility (OPR). Interestingly enough, it is also this office that investigates and arrests those who are considered to be a "potentially dangerous taxpayer" (PDT) based upon threats made against IRS employees.

Douglas Ulmer, an IRS field collections manager from Fort Collins, Colorado, whose management area covers part of Wyoming, discussed the Private Debt Collection Initiative authorized by the American Jobs Creation Act of 2004, which allowed the IRS to contract with private debt collection firms. He also gave an update on the ability for taxpayers and their representatives to apply for installment agreements online. He also discussed how the Tax Increase Prevention Reconciliation Act of 2005 (TIPRA) changed the procedures for offers in compromise. Under the revised law, 20% of the offer must be submitted with "lump sum" offers. Where a taxpayer offers to make monthly payments, such payments must be made during the time which the IRS considers the offer. In any event, if the IRS rejects the offer,

the payments made are non-refundable. He also discussed the differences between automatic collection system (ACS) procedures, and the procedures of field collection.

Any member of the Bar who would like more information about the topics covered during the Wyoming Stakeholder Liaison meeting, or who has a client with an issue that could possibly be addressed by the Office of Stakeholder Liaison, please contact us directly at: Thomas N. Long, P.C., P.O. Box 87, Cheyenne, WY 82003, 307-635-0710, tlong@tomlong.com.

Christopher M. Reimer is an associate attorney at the Cheyenne law firm of Thomas N. Long, P.C. He received a B.S. in Accounting from the University of Wyoming in 2001, a J.D. from the University of Wyoming College of Law in 2004, and an LL.M. in Taxation from the University of Denver in 2006.

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