

Date: November 4, 2009
Practitioner Liaison Meeting
Boise, Idaho

Time: 9:00 AM – 12:00 PM

Attendees:

Practitioner Attendees:

- Rich Jackson – Idaho Society of CPAs
- John McGown – Idaho State Bar
- Terry Bayless – Idaho Association of Public Accountants
- LeAnn Sannes – Idaho Society of CPAs
- Bill Smith – Idaho Society of CPAs
- Bob Wunderle – Low Income Taxpayer Clinic (LITC)
- Bob Aldridge – Idaho State Bar
- Tim Tarter – Idaho State Bar
- Marilyn Clapp – Idaho Department of Commerce & Labor
- E Shawn Novak – Boise State University
- Herb Bohrer – Taxpayer Advocacy Panel
- Elke Gribskov – Enrolled Agents
- Debbie Carrell – Idaho State Tax Commission

IRS Representatives:

- Kristen Hoiby: NW Area Manager – Stakeholder Liaison
 - John Blakeman: Stakeholder Liaison
 - Terry McCarthy: Supervisory Internal Revenue Agent – Large/Mid Sized Bus.
 - Brent Allred: Supervisory Internal Revenue Agent – Small Bus./Self Employed
 - Ryan Kinikin: Taxpayer Assistance Centers
 - Hester Pulling: Supervisory Revenue Officer - Collection
 - Kim Boyack: Sr. Stakeholder Relationship Tax Consultant - SPEC
 - Mary Kimmel: Attorney – Estate & Gift Tax
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Meeting Summary

Guest Speaker

Ryan Johansen (see below)

John McGown Practitioner Liaison Committee Chairperson

John provided introductions and opening remarks for our meeting. John commented on Idaho taxation of trusts and estates as well as the recent Dinner for Tax Court Judge Gerber. John also remarked on some of the Idaho state tax updates, most notably, the new Idaho Form K-1.

Brent Allred for Small Business/Self Employed Exam (SB/SE)

Brent just moved to Boise from South Dakota, and actually moved a bit early in order to make it to this meeting. Brent has replaced Liska Foss as Exam Group Manager. Liska has moved into an analyst position.

Brent remarked that the Fiscal Year 2010 Exam Plan will be much like the one last year. Essentially, this involves balanced coverage across the board for all returns. Perhaps the biggest news in Exam right now is the voluntary disclosure program with over 130,000 cases either completed or currently in process. Much of this has to do with the dealings between the United States and UBS (Switzerland) and the disclosure of high income taxpayers who may be hiding assets and income offshore.

There will be four new Tax Compliance Officers (TCOs) coming on board next calendar year. However, these four slots represent attrition hiring rather than an increase in staff.

Rich Jackson raised concerns over initiating examinations via a phone call to the Taxpayer rather than sending a letter. This sparked a spirited discussion over the merits of each method of initiating an examination. On the one hand, initiating the exam with a phone call to the taxpayer saves almost two weeks in overall case time. This is because the examiner can learn enough about the business to tailor the initial document request, limit the scope of examination, and set a tentative date for the initial interview. Essentially, initiating the examination via a phone call eliminates the wait time created by sending out a letter. Letters often take several days to reach their destination, and taxpayers often delay opening correspondence from the IRS as well as getting in touch with their tax preparers regarding the correspondence.

Initiating the examination via letter contact, however, provides more security to the taxpayer. One of the primary concerns regarding initial phone contact is the potential for phishing scams. Conceivably, those with a less-than-honest motive could call taxpayers and pass themselves off as IRS agents initiating examinations, thereby opening an opportunity to gain personal information of the taxpayer.

Both methods of initiating examination have their merits and pitfalls. It should be noted, though, that an agent is not supposed to ask tax related questions of the taxpayer during the initial phone contact. Agents should also provide their own contact information, and inform the taxpayer of the right to have a representative during the examination. Bob Aldridge recommended that examining agents use a basic script when making initial phone calls that clearly informs taxpayers of their rights and also puts them at ease with respect to the legitimacy of the phone call (i. e. it is not a phishing scheme).

A question also came up regarding the security of taxpayer data in the hands of

employees working flexiplace (working at home). Brent commented that there are mandated security measures by which these employees must adhere. These include such things as having locking cabinets, a secure area for the workstation, etc.

Managers must also make periodic visitations to the employee's home to make sure that these security measures are in place, functioning, and adequate.

Brent also briefly reminded the attendees that exam is now using an online system to classify 1040 returns for examination. While this process saves on resources and helps streamline the way these returns are picked for examination, the result is that a hardcopy (or the original) tax return is no longer included in the case file that is handed to the examining agent. The agent will instead receive a transcript listing the majority of the line items on the return. However, some of these items, most notably **the "Other Deductions" line from Schedule C, will only show up as a lump sum with no attendant detail.** Therefore, agents will likely be asking for a copy of the return for the year under examination as part of their initial information request.

Kristen Hoiby Manager for Stakeholder Liaison-Field NW Area

Kristen discussed the Issue Management Resolution System (IMRS) and that its primary purpose is to elevate systemic issues that practitioners are having with the IRS to where they can find resolution. However, IMRS only works if practitioners send in their issues. We are seeing some issues come in that relate to the voluntary disclosure program, and The American Recovery and Reinvestment Act has also generated quite a few issues.

Information received from public comment on the Return Preparer Program is in the process of being consolidated. Commissioner Shulman will make his recommendations to the President and Secretary of the Treasury later this year.

Herb Bohrer for Taxpayer Advocacy Panel

Herb gave the group a synopsis on the function of the Taxpayer Advocacy Panel (TAP). The TAP can be viewed as the civilian side of Stakeholder Liaison. The TAP serves as a conduit whereby taxpayers and tax practitioners may refer systemic issues they are having with the IRS. TAP works with the Taxpayer Advocate Service and the Systemic Advocacy Management System (SAMS) to resolve these issues. SAMS works along the same lines as IMRS, in that it seeks to elevate issues to a point within the IRS where someone with proper knowledge and/or authority can provide the needed information or make the necessary changes.

There are 100 TAP representatives nationwide and every state has at least one member. Representatives serve on a volunteer basis for a term of three years. It is recommended that those interested be willing to commit at least 300-500 hours per

year (closer to 500). Herb has two years to go in his term, and the recruiting process begins next spring. If you are interested, please contact Herb at:

herb@jasonbohrer.com

If you are interested in learning more about SAMS, please go to the following link:

<http://www.irs.gov/advocate/article/0,,id=117703,00.html>

Ryan Kinikin for Taxpayer Assistance Centers(Walk-In)

Ryan indicated that there are several Taxpayer Assistance Centers (TACs) in Idaho to help the taxpaying public. **The locations for these are Coeur d'Alene, Boise, Pocatello, and Idaho Falls.** Ryan indicated that the offices are fully staffed for the first time in several years. Pocatello is due to be remodeled next year. Ryan indicated that the TACs are seeing a wide variety of issues come through, and a 150% growth in the number of e-file returns.

John Blakeman asked how far a TAC employee was able to go in helping taxpayers resolve exam issues. This was prompted by a question from a practitioner in Idaho Falls, who indicated that a taxpayer client had gone to the TAC with a correspondence issue, but was unable to receive any definitive help from the employee at the TAC. Ryan indicated that TAC employees are not examiners and cannot make determinations on exam issues. They can, however, interpret CP 2000s, give advice on what documentation to send in to support a position, etc. However, the TAC employees are only a conduit for information, and cannot make determinations on exam issues.

Terry McCarthy for Large/Mid-size Business Exam (LMSB)

Terry indicated that the big news in LMSB was the merging of **SBSE's (Small Business/Self Employed) Offshore Compliance** program with LMSB. Currently, her office has 4 agents conducting examinations and 4 tax computation specialists. The tax computation specialists work to provide the agents with accurate tax computations so that the agents can issue accurate reports upon conclusion of an examination. The exam focus for LMSB is currently centering around high wealth individuals and tiered entities (partnerships and S-corporations). Specific issues of interest include loans to & from shareholders, officer compensation, and basis issues.

Bob Wunderle for LITC (Low Income Taxpayer Clinics)

Bob runs La Posada, the Low Income Taxpayer Clinic (LITC) in Twin Falls, and this is his first time at our meeting. Bob commented briefly on the Taxpayer Advocate

Service (TAS) and its role in assisting taxpayers with issues they are having with the IRS. TAS also administers the Low Income Taxpayer Clinics. These clinics offer people with limited resources assistance in tax preparation and representation in matters before the IRS. There are three LITCs serving taxpayers in Idaho. They are located in Moscow, Boise, and Twin Falls. Bob is always looking for qualified individuals to volunteer at these centers. Bob also remarked that there is a critical need for volunteer professionals who can represent these taxpayers before the IRS.

Kim Boyack for W&I Stakeholder Partnerships, Education & Communication (SPEC)

Kim works to provide education and outreach to the Wage & Investment taxpayers in Idaho. Among SPEC's many roles is the management of the volunteer tax preparation sites. Of course, the biggest thing this year is the American Recovery and Reinvestment Act, and SPEC continues to work diligently to get the word out on the many tax related provisions in this legislation. Kim also indicated that they have a new Territory Manager, Becky Facer.

Debbie Carrell for Idaho State Tax Commission, Taxpayer Services

Debbie provided office updates and commented that Taxpayer Services acts essentially as the front line for the Idaho State Tax Commission. Currently, there are 5 employees working the phones, and one person working the walk-in counter. During the last round of budget cuts the Tax Commission had its workforce cut by 65 positions. Apparently, this alarmed enough people that the legislature subsequently gave back 35 of them.

The phone tree was revamped in September in order to simplify the options for callers. In addition to revamping the phone tree, the Tax Commission will have a new and improved website coming in December. The state tax updates and 2009 tax forms (including the new Idaho K-1) will all be available online.

Ryan Johansen for Exempt Organizations

Ryan is an Agent with the Exempt Organizations Department, and attended the meeting via telephone from Ogden, Utah. Ryan was prepared to give a presentation on the relatively recently redesigned Form 990, but time constraints prevented the delivery of the presentation in its entirety. The following is an outline of the full presentation:

NOTE: Much of Ryan's time was devoted to questions from the meeting attendees, and following the outline below is a summary of those questions and answers.

Session Objectives:

- Explain the important purpose of Form 990
- Differentiate the various reporting forms— Form 990, 990-EZ, 990-PF, and 990-N
- Highlight the important new features of the redesigned Form 990
- Walk through completion of the form

Reasons for and Functions of Form 990:

Fulfills Legal Requirements

- Annual reporting of income, receipts, disbursements
- Unique Characteristics
- Information, not a tax return
- Open to Public Inspection
- Used by Many States

Filing Requirements

- Most organizations recognized as exempt from federal income tax must file

Exceptions

- Organizations with gross annual receipts \leq \$25,000 (must file Form 990-N instead)
- Churches and conventions or associations of churches
- Other specific exceptions

Filing Requirements

For Tax Years Beginning after December 31, 2006

- Failure to file required return (Form 990, 990-EZ, 990-PF or 990-N) for three consecutive years results in loss of exemption
- Organization must re-apply and pay appropriate user fees
- Filing Requirements—Form 990-N
- Electronic Notification-- Form 990-N
- Annual gross receipts normally \leq \$25,000 until 2010 (and \leq \$50,000 after 2010)

\leq \$25,000 Gross Receipts Test Met if

- 1 year old or less and \leq \$37,500
- More than 1 but less than 3 years old and annual average of \leq \$30,000
- 3 years or older and annual average of \leq \$25,000

Filing Requirements 2008

Form 990-PF – Private Foundations

Form 990

- Annual gross receipts normally \geq \$1 million, or
- Total assets \geq \$2.5 million
- An organization of any size may voluntarily file Form 990!

Form 990-EZ

- Annual gross receipts normally < \$1 million and total assets < \$2.5 million

Filing Requirements 2009

Form 990-PF – Private Foundations

Form 990

- Annual gross receipts normally \geq \$500,000, or
- Total assets \geq \$1.25 million
- An organization of any size may voluntarily file Form 990!

Form 990-EZ

- Annual gross receipts normally < \$500,000 and total assets < \$1.25 million

Filing Requirements 2010

Form 990-PF – Private Foundations

Form 990

- Annual gross receipts normally \geq \$200,000, or
- Total assets \geq \$500,000
- An organization of any size may voluntarily file Form 990!

Form 990-EZ

- Annual gross receipts normally < \$200,000 and total assets < \$500,000

Form 990-T

Form 990-T is required:

- Any organization with annual gross unrelated business income of \$1000 or more
- In addition to filing Form 990 or Form 990-EZ
- Form 990-T is due:
- The 15th day of the 5th month following the end of organization's accounting period

Form 990-T

File Form 990-T if:

- Gross income from unrelated trade or business \geq \$1,000
- *Even if* organization is not required to file an information return or notification
- Gross income = gross receipts minus cost of goods sold

Forms 990, 990-EZ, 990-N and 990-PF Due:

- 15th day of the 5th month after the organization's accounting period ends
- Example: May 15 for an organization with a December 31st year-end
- Request Extension with Form 8868 on or before the due date

Where To File?

- Paper returns are filed with IRS in Ogden, UT

Electronic filing required for:

- Form 990 filers with assets of \geq \$10 million and at least 250 returns in calendar year
- Form 990-PF filers of any asset size and at least 250 returns in calendar year.

The IRS recommends that all organizations, regardless of size, file electronically!

Non-Filers or Late-Filers**Loss of Exempt Status**

- Non-Filing Three Consecutive Years
- Imposed by PPA
- All filers – Forms 990, 990-EZ, 990-N or 990-PF

Late Filing Penalties for Forms 990, 990-EZ or 990-PF Filers**Why change the Form 990?**

- Last major update to Form 990 was almost 30 years ago!
- EOs have changed
- New form is necessarily more comprehensive

New Form 990 ensures that organizations are fulfilling their exempt purpose and protects the public trust.

Redesigned Form 990**Allows an EO to show that it...**

- Is organized and operated as a tax-exempt entity
- Is in compliance with applicable tax laws
- Continues to fulfill its mission
- Responsibly safeguards its assets

Form 990 – New Additions

- Glossary of important terms
- Appendices on specialized topics
- Compensation table
- Directions to the most logical approach to completing the form

GRAND DEBUT-- TAX YEAR 2008

Public Inspection

Information Subject to Inspection:

- Annual Information Returns (Forms 990, 990-EZ, and 990-PF)
- Application for Exemption (Form 1023)
- All schedules, attachments & supporting documents
- Forms 990-T for 501(c)(3) organizations

Furnishing Copies

- Must provide copies upon request
- May charge reasonable fee
- **Do not have to provide copies if "widely available," (internet)**
- **"Widely available" exception only satisfies the requirement to provide copies, not the public inspection requirement**

For More Information

EO Customer Account Services:
1-877-829-5500

EO Website:
www.irs.gov/eo

Forms and Publications:
1-800-829-3676
www.irs.gov/formspubs

Subscribe to EO Update:
Go to <http://www.irs.gov/charities>, click on "EO Newsletter," follow prompts

Visit StayExempt.org:
www.stayexempt.org

Bob Aldridge asked what the duty is of a church to report to the IRS, and Ryan responded that if the entity meets the definition of a church then it is exempt from filing an information return each year. The only possible filing the entity might have would be an employment tax return or a Form 990-T if there is more than \$1,000 in unrelated business income. Bob also alerted us to a possible scam being marketed to churches, especially in the Southwestern U.S., that tries to convince them that they need to file a Form 990 or face serious penalties. The promoters then charge the churches for setting up entities, completing tax forms, and doing other unnecessary work. Ryan indicated that he was not aware of such a scam being operated.

LeAnn Sannes asked if there were any common errors to watch out for when completing the Form 990. Ryan indicated that the most common errors are incomplete returns, and failure to file. Failing to file a return for three consecutive **years when required to do so will result in the loss of the entity's Not-for-profit status.** Also Penalties for not filing can be quite severe at anywhere from \$20-\$100 per day. People should also pay particular attention to filling out Part IV of Form 990, since after filling out Part IV they should know all that they have to do to complete the Form. Also, be sure to sign and date the return.

Part III of Form 990 is also important, as this is where the organization describes its program services. Form 990 Schedule O is used for any additional information that an organization may want to convey (e.g. if they were part of a consolidated examination). Additionally, if any questions on the form do not apply to the organization then leave those questions blank.

A question was raised regarding filing amendments to bylaws. Previously, as an **organization's bylaws were amended or changed, these changes would be sent in as** attachments to the Form 990. With the new Form 990, these changes must be described on the form itself. Bill Smith asked if there was a **"fast-track" way for an** organization that lost its exempt status to regain it, particularly one required to file Form 990-N that lost its status through inadvertently failing to file when required to **do so. Ryan indicated that there was no "Fast-track" option in place**, and that the organization would still be required to file Form 1023 or 1024 to have its exempt status reinstated.

John McGown had questions on how returns are selected for examination and what the IRS typically looks for. Ryan replied that there is indeed a classification process, including visual inspection, for these returns. Typically, the IRS checks to make sure all required schedules are included, any necessary employment tax returns have been filed, and that the organization is carrying out its program. The potential for selection is somewhat lower in the mountain states than, for example, the East coast or California due to resource limitations (fewer agents). Ryan indicated that there are 12 Exempt Organization Agents in Utah (10 in Ogden & 2 in Salt Lake), and about 12 in Seattle.

Another common mistake that filers make is not including a Schedule B when the box is checked indicating that they had a donor(s) contribute more than \$2,000. Also, Ryan reiterated that if the Form 990 is not signed, it is not official and will not be accepted.

In conclusion, Ryan stated that if for some reason the Form 990 could not be timely filed, then the organization should include a cover letter explaining the circumstances. Be as detailed as possible. If there is sufficient reason, then the IRS will not impose the late filing penalty. The people processing the returns have the authority to make this determination. Sending an explanatory letter and getting the penalty waived up front is much easier than waiting for the penalty to get assessed and then having to deal with accounts management.

If anyone has additional issues or questions Ryan can be contacted via phone or email at: 801-620-3280 or ryan.j.johansen@irs.gov

Hester Pulling for Collection

Hester encouraged tax practitioners to be proactive with collection cases and to please not just wait until they are assigned to a field officer. There are currently 17 Revenue Officers covering Boise, Twin Falls, Idaho Falls, and Pocatello. Of these 17

Officers, three are retiring soon and the rest have 3 years or less experience. Bob Aldridge asked if there were any statistics available on Offers in Compromise. Hester indicated that about 90% of the offers sent to centralized processing are handled within 6 months. The more complicated ones go to Field Offer groups, and about 82% are closed/disposed of within 9 months. For the 10 month period ending July 2009 the percentages for the various categories of dispositions of Offers in Compromise are as follows:

1. 9% of offers were considered not processable
2. 24% were accepted
3. 29% were rejected
4. 23% were returned
5. 11% were withdrawn or terminated

Hester also reminded the attendees that by the time a Field Officer visits a business the business has received quite a lot of correspondence, and is well aware that taxes are due. Often times these are payroll taxes and other Form 941 issues, but sometimes they **cross over to the owners' 1040s as well.**

Roundtable & Comments

Roundtable Discussion

Marilynn Clapp, of Idaho Department of Commerce & Labor announced that the unemployment tax rates would be going up significantly by December 15th. Currently the rate is 1.566%, but it could go as high as 4% or 5%. This is because the trust fund is completely empty, and is having to borrow from other sources to meet demand.

Shawn Novak, of Boise State University asked that attendees remember new graduates when looking to hire staff. BSU continues to produce some of the brightest and best new accountants the area has to offer.

Bob Wunderle asked if there was a direct line for practitioners to call the Automated Collection System (ACS) rather than go through Practitioner Priority Service (PPS). It should be noted that each ACS case is assigned to a particular ACS unit. Practitioners should call the number on the notice provided to the taxpayer. In cases where the notice has been misplaced, the practitioner would likely need to go through PPS anyway **to determine the ACS unit to which the taxpayer's case has been assigned.**

Bob also wondered if there was a fax number for the Substitute for Return (SFR) unit to send in additional SFR information, and whether there was a phone number to call someone directly at the Centralized Authorization File (CAF) unit. Unfortunately,

there is no direct line available for practitioners to speak with an individual at the CAF unit. Also, there is no external fax number a practitioner can call to send in additional information to an SFR unit.

A Substitute for Return is often prepared when the IRS receives information returns, such as W-2s or 1099s, regarding a taxpayer, but the taxpayer has not filed a return yet. The IRS will issue a series of notices to the taxpayer indicating that there is information on file, and that there is a need to file a return. If there is no response from the taxpayer, the IRS will file a substitute return using the information on file. If the taxpayer has additional information that he or she feels is necessary to correct this Substitute for Return, then the correct procedure would be to file the appropriate tax return(s) with the IRS rather than faxing additional information.

John McGown mentioned that no one had responded to the e-mail concerning a new Chairperson for our meeting. He contacted one individual who was noncommittal. John will be a Visiting Professor at the University of Idaho College of Law this spring (teaching Estate Planning and Partnership Tax) and this presents a good opportunity for a new Chair to step in. It would be helpful if the individual had some vision for the Idaho Practitioner Liaison Group. Interested persons should contact either John McGown or John Blakeman.

The meeting was adjourned at 12:00 PM.

As your Practitioner Liaison for Idaho, John Blakeman can be reached at:

(503) 326-7053 or john.w.blakeman@irs.gov

Next Scheduled Meeting

The date for the next PLM has yet to be determined, but will likely be some time during the week of May 10, 2010. As usual, it will take place from 9:00 AM – 12:00 PM in Room 384 at the James McClure Federal Building.