

Jan. 31, 2017

IRS Announces Initial Rollout of Large Business and International Campaigns

The IRS Large Business and International division has announced the identification and selection of 13 campaigns. This is a significant milestone for LB&I in the campaign effort. LB&I is moving toward issue-based examinations and a compliance campaign process in which the organization decides which compliance issues that present risk require a response in the form of one or multiple treatment streams to achieve compliance objectives. This approach makes use of IRS knowledge and deploys the right resources to address those issues

The campaigns are the culmination of an extensive effort to redefine large business compliance work and build a supportive infrastructure inside LB&I. Campaign development requires strategic planning and deployment of resources, training and tools, metrics and feedback. LB&I is investing the time and resources necessary to build well-run and well-planned compliance campaigns.

These campaigns were identified through LB&I extensive data analysis, suggestions from IRS compliance employees and feedback from the tax community. LB&I's goal is to improve return selection, identify issues representing a risk of non-compliance, and make the greatest use of limited resources.

As part of this effort, LB&I leaders will continue discussion with the tax community to assist with work on these areas to best meet the needs of the taxpayers as well as tax administration. These discussions will also help in determining additional areas for future campaigns.

The 13 campaigns selected for this initial rollout are:

- **IRC 48C Energy Credit Campaign**

The Practice Area is Enterprise Activities

Lead Executive: Kathy Robbins

This campaign ensures that only those taxpayers whose advanced energy projects were approved by the Department of Energy, and who have been allocated a credit by the IRS, are claiming the credit. These credits must be pre-approved through extensive application to the DOE. The treatment stream for this campaign will be soft letters and issue-focused examinations.

- **OVDP Declines-Withdrawals Campaign**

The Practice Area is Withholding & International Individual Compliance

Lead Executive: Pamela Drenthe

The Offshore Voluntary Disclosure Program (OVDP) allows U.S. taxpayers to voluntarily resolve past non-compliance related to unreported offshore income and failure to file foreign information returns. This campaign addresses OVDP applicants who applied for pre-clearance into the program but were either denied access to OVDP or withdrew from the program of their own accord. Taxpayers, who have yet to resolve their non-compliance and who meet the eligibility criteria, are encouraged to consider entering one of the offshore programs currently available. The IRS will address continued noncompliance through a variety of treatment streams including examination.

- **Domestic Production Activities Deduction, Multi-Channel Video Program Distributors (MVPD's) and TV Broadcasters**

The Practice Area is Enterprise Activities

Lead Executive: Kathy Robbins

Multi-channel Video Programming Distributors (MVPDs) and TV Broadcasters often claim that “groups” of channels or programs are a qualified film eligible for the IRC Section 199 deduction. Taxpayers are asserting that they are the producers of a qualified film when distributing channels and subscriptions packages that often include third-party produced content. Additionally, MVPD taxpayers maintain that they provide online access to computer software for the customers’ direct use (incident to taxpayers’ transmission activities, including customers’ use of the set-top boxes). LB&I has developed a strategy to identify taxpayers impacted by these issues and will develop training to aid revenue agents in examining them. The treatment streams for this campaign include the development of an externally published practice unit, potential published guidance, and issue based exams, when warranted.

- **Micro-Captive Insurance Campaign**

The Practice Area is Enterprise Activities

Lead Executive: Gloria Sullivan

This campaign addresses transactions described in Transactions of Interest Notice 2016-66, in which a taxpayer attempts to reduce aggregate taxable income using contracts treated as insurance contracts and a related company that the parties treat as a captive insurance company. Each entity that the parties treat as an insured entity under the contracts claims deductions for insurance premiums. The manner in which the contracts are interpreted, administered, and applied is inconsistent with arm’s length transactions and sound business practices. LB&I has developed a training strategy for this campaign. The treatment stream for this campaign will be issue-based examinations.

- **Related Party Transactions Campaign**

The Practice Area is Enterprise Activities

Lead Executive: Peter Puzakulics

This campaign focuses on transactions between commonly controlled entities that provide taxpayers a means to transfer funds from the corporation to related pass through entities or shareholders. LB&I is allocating resources to this issue to determine the level of compliance in related party transactions of taxpayers in the mid-market segment. The treatment stream for this campaign is issue-based examinations.

- **Deferred Variable Annuity Reserves & Life Insurance Reserves IIR Campaign**

The Practice Area is Enterprise Activities

Lead Executive: Kathy Robbins

The IRS and Chief Counsel have agreed to accept the Deferred Variable Annuity Reserves and Life Insurance Reserves issues into the IIR program (pursuant to Rev. Proc. 2016-19) to develop guidance to address uncertainties on issues important to the Life Insurance Industry. The issues include amounts to be taken into account in determining tax reserves for both deferred variable annuities with Guaranteed Minimum Benefits, and Life Insurance contracts. The campaign's objective is to collaborate with industry stakeholders, Chief Counsel and Treasury to develop published guidance that provides certainty to taxpayers regarding these related issues.

- **Basket Transactions Campaign**

The Practice Area is Enterprise Activities

Lead Executive: Gloria Sullivan

This campaign addresses structured financial transactions described in Notices 2015-73 and 74, in which a taxpayer attempts to defer and treat ordinary income and short-term capital gain as long-term capital gain. The taxpayer treats the option or other derivative as open until a barrier event occurs, and, therefore, does not recognize or report current period gains. The gains are deferred until the contract terminates, at which time the overall net gain is reported as a Long Term Capital Gain. LB&I has developed a training strategy for this campaign. The treatment streams for this campaign will be issue-based examinations, soft letters to Material Advisors and practitioner outreach.

- **Land Developers - Completed Contract Method (CCM) Campaign**

The Practice Area is Enterprise Activities

Lead Executive: Peter Puzakulics

Large land developers that construct in residential communities may be improperly using the Completed Contract Method (CCM) of accounting. A developer, whose average annual gross receipts exceed \$10 million, may only use the CCM under a home construction contract. In some cases, developers are improperly deferring all gain until the entire development is completed. LB&I will provide training for revenue agents assigned to work this issue. The treatment stream includes development of a practice unit, issuance of soft letters, and follow-up with issue based examinations when warranted.

- **TEFRA Linkage Plan Strategy Campaign**

The Practice Area is Pass-Through Entities

Lead Executive: Cliff Scherwinski

As partnerships have become larger and more complex, LB&I has regularly revised processes to assess tax on the terminal investors. Recent legal advice provides an opportunity to make significant changes to how we approach this process. This campaign focuses on developing new procedures and technology to work collaboratively with the revenue agent conducting the TEFRA partnership examination to identify, link and assess tax to the terminal investors that pose the most significant compliance risk.

- **S Corporation Losses Claimed in Excess of Basis Campaign**

The Practice Area is Pass-Through Entities

Lead Executive: Holly Paz

S corporation shareholders report income, losses and other items passed through from their corporation. The law limits losses and deductions to their basis in the corporation. LB&I has found that shareholders claim losses and deductions to which they are not entitled because they do not have sufficient stock or debt basis to absorb these items. LB&I has developed technical content for this campaign that will aid revenue agents as they examine the issue. The treatment streams for this campaign will be issue-based examinations, soft letters encouraging voluntary self-correction, conducting stakeholder outreach, and creating a new form for shareholders to assist in properly computing their basis.

- **Repatriation Campaign**

The Practice Area is Cross Border Activities

Lead Executive: John Hinding

LB&I is aware of different repatriation structures being used for purposes of tax free repatriation of funds into the U.S. in the mid-market population. It has also been determined that many of the taxpayers do not properly report repatriations as taxable events on their filed returns. The goal of this campaign is to simultaneously improve issue selection filters while conducting examinations on identified, high risk repatriation issues and thereby increase taxpayer compliance.

- **Form 1120-F Non-Filer Campaign**

The Practice Area is Cross Border Activities

Lead Executive: John Hinding

Foreign companies doing business in the U.S. are often required to file Form 1120-F. LB&I has data suggesting that many of these companies are not meeting their filing obligations. In this campaign, LB&I will use various external data sources to identify these foreign companies and encourage them to file their required returns. The treatment stream for this campaign will involve soft letter outreach. If the companies do not take appropriate action, LB&I will conduct examinations to determine the correct tax liability. The goal is to increase voluntary compliance by foreign corporations with a U.S. business nexus.

- **Inbound Distributor Campaign**

The Practice Area is Treaty and Transfer Pricing Operations

Lead Executive: Sharon Porter

U.S. distributors of goods sourced from foreign-related parties have incurred losses or small profits on U.S. returns, which are not commensurate with the functions performed and risks assumed. In many cases, the U.S. taxpayer would be entitled to higher returns in arms-length transactions. LB&I has developed a comprehensive training strategy for this campaign that will aid revenue agents as they examine this IRC Section 482 issue. The treatment stream for this campaign will be issue-based examinations.

These campaigns represent the first wave of LB&I's issue-based compliance work. More campaigns will continue to be identified, approved and launched in the coming months.

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