

At-a-Glance: The Internal Revenue Service, its Mission and Function

By Charles P. Rettig

Charles Rettig provides a history of income taxation in the United States and an overview of the IRS as it is currently structured.

When was the IRS created? Who does the IRS report to? Who makes the decisions as to which players will be on the field? Looking for a complete copy of the Form 1040 first introduced in 1913? Many practitioners know that IRS Special Agents attained national prominence in the 1930's for their efforts leading to the conviction of "Public Enemy Number One," Al Capone (for income tax evasion) and their role in solving the Lindbergh kidnapping. However, did you know the first IRS criminal Special Agents were actually Inspectors transferred to the Bureau of Internal Revenue from the United States Post Office?

A quick look to the official IRS internet site—www.irs.gov—will provide all of the information you've been searching for these many years! If you haven't stopped by, do it now! Not only can you get a detailed players roster (an organizational chart *with* contact information), but you can get the entire history of the organization! Following are random bits of interesting information gleaned directly from www.irs.gov. What you didn't know won't be held against you (yet)...but what you learn may surprise you!

Statutory Authority. The IRS is organized to carry out the responsibilities of the Secretary of the Treasury under Code Sec. 7801. The Secretary has full authority to administer and enforce the internal revenue laws and has the power to create an agency to enforce these laws. The IRS was created based on this legislative grant. Code Sec. 7803 provides for the

appointment of a Commissioner of Internal Revenue to administer and supervise the execution and application of the internal revenue laws.

The IRS Mission. "Provide America's taxpayers top quality service by helping them understand and meet their tax responsibilities and by applying the tax law

with integrity and fairness to all." This mission statement describes the IRS's role and the public's expectation about how the IRS should perform that role. In the United States, Congress passes tax laws and requires taxpayers to comply. The IRS role is to

help the large majority of compliant taxpayers with the tax law, while ensuring that the minority who are unwilling to comply pay their fair share.

The Agency. The IRS is a Bureau of the Department of the Treasury and one of the world's most efficient tax administrators. In 2004, the IRS collected more than \$2 trillion in revenue and processed more than 224 million tax returns. In 2005, the IRS spent just 44 cents for each \$100 it collected and, for the first time, a majority (52 percent) of individual taxpayers filed their tax returns electronically; more than 8 million business returns were filed electronically; more than 75 million individual and business returns were prepared by tax professionals using a computer; approximately 120,000 tax professionals used IRS's e-Services, a web-based suite of services to help prepare, research and submit tax returns electronically; more than 1 million taxpayers enrolled in the IRS's Electronic Federal Tax Payment System (EFTPS) in fiscal year 2005; IRS received 1.4 million credit card payments; and approximately 1.2

The IRS role is to help the large majority of compliant taxpayers with the tax law, while ensuring that the minority who are unwilling to comply pay their fair share.

Charles P. Rettig is a Principal with the firm of Hochman, Salkin, Rettig, Toscher & Perez, P.C., in Beverly Hills, California.

million tax payments were made *via* electronic funds withdrawal.

Brief History of IRS

- 1862—President Lincoln signed into law a revenue-raising measure to help pay for Civil War expenses. The measure created a Commissioner of Internal Revenue and the nation's first income tax. It levied a three-percent tax on incomes between \$600 and \$10,000 and a five-percent tax on incomes of more than \$10,000.
- 1867—Heeding public opposition to the income tax, Congress cut the tax rate. From 1868 until 1913, 90 percent of all revenue came from taxes on liquor, beer, wine and tobacco.
- 1872—Income tax repealed.
- 1894—The Wilson Tariff Act revived the income tax, and an Income Tax Division within the Bureau of Internal Revenue was created.
- 1895—The Supreme Court ruled the new income tax unconstitutional on the grounds that it was a direct tax, and not apportioned among the states on the basis of population. The Income Tax Division was disbanded.
- 1909—President Taft recommended Congress propose a constitutional amendment that would give the government the power to tax incomes, without apportioning the burden among the states in line with population. Congress also levied a one-percent tax on net corporate incomes of more than \$5,000.
- 1913—As the threat of war loomed, Wyoming became the 36th, and last, state needed to ratify the 16th Amendment. The Amendment stated, "Congress shall have the power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several states, and without regard to any census or enumeration." Later, Congress adopted a one-percent tax on net personal income of more than \$3,000 with a surtax of 6 percent on incomes of more than \$500,000. It also repealed the 1909 corporate income tax. The first Form 1040 was introduced!
- 1918—The Revenue Act of 1918 raised even greater sums for the World War I effort. It codified all existing tax laws and imposed a progressive income-tax rate structure of up to 77 percent.
- 1919—The states ratified the 18th Amendment, barring the manufacture, sale or transport of intoxicating beverages ("Prohibition"). Congress passed the Volstead Act, which gave the Commissioner of Internal Revenue the primary responsibility for enforcement of Prohibition. Eleven years later, the Department of Justice assumed primary prohibition enforcement duties.
- 1931—The IRS Intelligence Unit used an undercover agent to gather evidence against gangster Al Capone. Capone was convicted of tax evasion and sentenced to 11 years.
- 1933—Prohibition repealed. IRS again assumed responsibility for alcohol taxation the following year and for administering the National Firearms Act. Later, tobacco tax enforcement was added.
- 1942—The Revenue Act of 1942, hailed by President Roosevelt as "the greatest tax bill in American history," passed Congress. It increased taxes and the number of Americans subject to the income tax. It also created deductions for medical and investment expenses.
- 1943—Congress passed the Current Tax Payment Act, which required employers to withhold taxes from employees' wages and remit them quarterly.
- 1944—Congress passed the Individual Income Tax Act, which created the standard deductions on Form 1040.
- 1952—President Truman proposed his Reorganization Plan No. 1, which replaced the patronage system at the IRS with a career civil service system. It also decentralized service to taxpayers and sought to restore public confidence in the agency.
- 1953—President Eisenhower endorsed Truman's reorganization plan and changed the name of the agency from the Bureau of Internal Revenue to the Internal Revenue Service.
- 1954—The filing deadline for individual tax returns changed from March 15 to April 15.
- 1961—The Computer Age began at IRS with the dedication of the National Computer Center at Martinsburg, W.Va.
- 1965—The IRS instituted its first toll-free telephone site.
- 1972—The Alcohol, Tobacco and Firearms Division separated from the IRS to become the independent Bureau of Alcohol, Tobacco and Firearms.
- 1974—Congress passed the Employee Retirement and Income Security Act, which gave regulatory responsibilities for employee benefit plans to the IRS.

- 1986—Limited electronic filing began. President Reagan signed the Tax Reform Act, the most significant piece of tax legislation in 30 years. It contained 300 provisions and took three years to implement. The Act codified the federal tax laws for the third time since the Revenue Act of 1918.
- 1992—Taxpayers who owed money were allowed to file returns electronically.
- 1998—Congress passed the IRS Restructuring and Reform Act, which expanded taxpayer rights and called for reorganizing the agency into four operating divisions aligned according to taxpayer needs.
- 2000—The IRS enacted reforms, ending its geographic-based structure and instituting four major operating divisions: Wage and Investment, Small Business/Self-Employed, Large and Mid-Size Business and Tax Exempt and Government Entities. It was the most sweeping change at the IRS since the 1953 reorganization.
- 2001—The IRS administered a mid-year tax refund program to provide advance payments of a tax rate reduction.
- 2003—The IRS administered another mid-year refund program, this time providing an advance payment of an increase in the Child Tax Credit. Electronic filing reached a new high—52.9 million tax returns, more than 40 percent of all individual returns.

Office of the Commissioner of Internal Revenue

The Office of Commissioner of Internal Revenue was created by an Act of Congress on July 1, 1862. The Commissioner is appointed by the President with the advice and consent of the Senate. With no set tenure, Commissioners served as long as they and the President chose. The IRS Restructuring and Reform Act of 1998 amended Code Sec. 7803 to set a five-year term of office. The first such term was applied to the Commissioner serving when this Act became law, Charles Rossotti, beginning with the date of his appointment. He served the full five years, from November 1997 to November 2002.

Shortest-Serving Commissioners of Internal Revenue

Not counting those who served as Acting Commissioner between permanent appointees, these

Commissioners served the shortest times in office, less than one year: Robert E. Hannegan, 10/9/1943–1/22/1944 (3 months, 14 days); William Orton, 7/1/1865–10/31/1865 (4 months); Alfred Pleasonton, 1/3/1871–8/8/1871 (7 months, 6 days); George S. Boutwell, 7/17/1862–3/4/1863 (7 months, 16 days); Shirley D. Peterson, 2/3/1992–1/20/1993 (11 months, 18 days).

Longest-Serving Commissioners of Internal Revenue

These Commissioners served the longest terms, five years or more: Guy T. Helvering, 6/6/1933–10/8/1943 (10 years, 4 months); David H. Blair, 5/27/1921–5/31/1929 (8 years); Joseph S. Miller, 3/20/1885–3/20/1889 and 4/19/1893–11/26/1896 (7 years, 7 months); Green B. Raum 8/2/1876–4/30/1883 (6 years, 9 months); John W. Yerkes, 12/20/1900–4/30/1907 (6 years, 4 months); Roscoe L. Egger, Jr., 3/14/1981–4/30/1986 (5 years, 1 month); Charles O. Rossotti, 11/13/1997–11/12/2002 (5 years).

Office of IRS Chief Counsel

Mission

Serve America's taxpayers fairly and with integrity by providing correct and impartial interpretation of the internal revenue laws and the highest quality legal advice and representation for the Internal Revenue Service.

Overview

The IRS Chief Counsel is appointed by the President with the advice and consent of the Senate. As the chief legal advisor to the IRS Commissioner on all matters pertaining to the interpretation, administration and enforcement of the Internal Revenue Laws (as well as all other legal matters), the Chief Counsel provides legal guidance and interpretive advice to the IRS, Treasury and taxpayers.

Large and Mid-Size Business (LMSB) Division

The Large and Mid-Size Business (LMSB) Division serves corporations, subchapter S corporations and partnerships with assets greater than \$10 million. These businesses employ a large number of employees, deal with complicated issues involving tax law and accounting principles and conduct business in

an expanding global environment. LMSB is organized among five industries: Communications, Technology and Media; Financial Services; Heavy Manufacturing and Transportation; Natural Resources and Construction; and Retailers, Food, Pharmaceuticals and Healthcare. There are also Field Specialists operating in a support function for these operations. The current strategic priorities of LMSB include Globalization (dealing with a global economy), Issue Management (attempt to resolve potential tax disputes earlier in the process), Abusive Tax Shelters (LMSB's highest enforcement priority) and Assessing Compliance Risks within the LMSB taxpayer population. Other high risk issues requiring additional research and appropriate compliance improvement action involve executive compensation, offshore tax avoidance transactions, flow-through entities, special purpose entities and financial versus tax reporting discrepancies.

[The Intelligence Unit] attained national prominence in the 1930s for the conviction of public enemy number one, Al Capone, for income tax evasion and its role in solving the Lindbergh kidnapping.

LMSB Strategic Initiatives

The LMSB's Abusive Tax Avoidance Transactions (ATAT) group combats abusive tax avoidance transactions by providing early-investing guidance, addressing shelters at the promoter level and increasing the strength of ATAT issue development. Compliance Risk serves LMSB by identifying and addressing LMSB compliance risks for the increasingly global LMSB taxpayer. Re-engineering and Issue Management re-engineers and institutionalizes issue-management strategies and compliance processes. Compliance Information Management uses partnerships, processes and legislative changes to provide timely data to effectively assess the reporting compliance risks in the LMSB population. Human Capital recruits, develops and retains a highly skilled and satisfied workforce.

Small Business/Self-Employed (SB/SE) Division

Mission

The mission of the Small Business/Self-Employed (SB/SE) Division is to provide SB/SE customers top-quality service by educating and informing

them of their tax obligations, developing educational products and services, and helping them understand and comply with applicable laws, and to protect the public interest by applying the tax law with integrity and fairness to all.

SB/SE has primary responsibility for all taxpayers filing Schedule Cs, Schedule Fs, Schedule Es, Forms 2106, Partnership and S Corporation Returns and Corporate Returns with assets under \$10 million. SB/SE serves approximately 45 million taxpayers of which about 33 million

are fully or partially self-employed; about 7 million small businesses with assets of less than \$10 million, having some of the most complex issues due to tax law requirements and the number of forms and schedules required; most have four–60 routine transactions with the IRS per year.

Strategic Priorities

SB/SE's foremost priorities include meeting the public's expectations by always being responsive and always performing with integrity when dealing with customers; recognizing the need for continuous training, skills enhancement and open communications between employees and management; encouraging compliance by partnering with the taxpayer from the "start-up" business phase and throughout the business life cycle; stabilizing and improving business results.

SB/SE Division Operates through Five Organizations

- Collection—The mission of Collection is to collect delinquent taxes and secure delinquent tax returns.
- Compliance Services Campus Operations—This division oversees operations of the Brookhaven, Philadelphia, Cincinnati, Memphis and Ogden Campuses.
- Examination—It is the function of the Examination Division to make checks of returns filed and select returns for audit based on various criteria.
- Specialty Taxes—Currently, there are four market segments for which this division has responsibility.

ties. They are Employment Tax, Excise Tax, Estate and Gift Tax and International tax issues.

- Taxpayer Education and Communication (TEC)—TEC is a customer-focused organization that routinely will solicit information from taxpayers and external stakeholders concerning the needs and characteristics of its customers. TEC will implement its programs based on that feedback mechanism and will continuously research and analyze taxpayer trends to ensure that products and services are tailored to meet the needs of SB/SE taxpayers. TEC also will partner with other government agencies and state and local entities to provide one-stop assistance.

Tax Exempt & Government Entities Division (TE/GE)

Mission

To provide TE/GE customers top quality service by helping them understand and comply with applicable tax laws and to protect the public interest by applying the tax law with integrity and fairness to all.

TE/GE is designed to serve the needs of three very distinct customer segments: Employee Plans, Exempt Organizations and Government Entities. The customers range from small local community organizations and municipalities to major universities, huge pension funds, state governments, Indian tribal governments and participants of complex tax exempt bond transactions. These organizations represent a large economic sector with unique needs. Although generally paying no income tax, this sector does pay over \$220 billion in employment taxes and income tax withholding and controls approximately \$8.2 trillion in assets. Governed by complex, highly specialized provisions of the tax law, this sector is not designed to generate revenue, but rather to ensure that the entities fulfill the policy goals that their tax exemption was designed to achieve.

Employee Plans taxpayers represent private and public retirement plans with approximately \$4 trillion in assets. Exempt Organization taxpayers represent more than 1.6 million tax exempt organizations—including about 400,000 religious organizations—with approximately \$2.4 trillion in assets. Government Entities taxpayers include outstanding tax exempt bonds with a total value of approximately \$1.8 tril-

lion, 88,000 federal, state and local entities, and over 550 federally recognized Indian tribes.

Wage and Investment (W&I) Division

Mission

Employees in the Wage and Investment Division (W&I) educate and assist their customers in understanding and satisfying their tax responsibilities. W&I provides this service in a high quality, fair and equitable manner through a partnership between management, employees and stakeholders.

Strategic Priorities

W&I services approximately 122 million mostly wage-earner taxpayers through five IRS Service Centers, supporting the IRS's strategic goals and objectives through initiatives that meet the needs of taxpayers; reduce taxpayer burden; broaden the use of electronic interactions; address key areas of noncompliance; stabilize traditional compliance activities; recruit, develop and retain a quality workforce; and provide high-quality, efficient, responsive information and shared support services.

Appeals

Mission

To resolve tax controversies, without litigation, on a basis which is fair and impartial to both the Government and the taxpayer, and in a manner that will enhance voluntary compliance and public confidence in the integrity and efficiency of the Service.

Continuing the Tradition

The Appeals function serves as the administrative forum for any taxpayer contesting an IRS compliance action. It traces its origins to August 1, 1927, when the Commissioner established a Special Advisory Committee to provide an appeal for cases pending before the Board of Tax Appeals, the predecessor to the U.S. Tax Court. While the organizational structure and name of the Committee has changed over the years, Appeals' mission to expedite the settlement of tax disputes without formal trial remains the same.

From 1927 to today, Appeals employees have been proud of their role in tax administration. From a function with less than 50 employees and an inventory of approximately 5,000 cases, Appeals has grown to over 1,800 employees with an inventory of over 68,000 cases.

Strategic Priorities

The priorities of the Office of Appeals are to address the changing and growing inventory; reduce the length of the appeals process; improve quality of referrals to Appeals; implement Appeals tax shelter resolution strategies; improve stakeholder and customer awareness of Appeal rights and processes; promote employee productivity, engagement and satisfaction; and implement Appeals' presence in IRS campus environments.

Criminal Investigation (CI)

Mission

Criminal Investigation (CI) serves the American public by investigating potential criminal violations of the Internal Revenue Code and related financial crimes in a manner that fosters confidence in the tax system and compliance with the law.

History of CI

On July 1, 1919, the IRS Commissioner created the Intelligence Unit to investigate widespread allegations of tax fraud. To establish the Intelligence Unit, six U.S. Post Office Inspectors were transferred to the Bureau of Internal Revenue to become the first special agents in charge of the organization that would one day become Criminal Investigation. They formed the nucleus that built the Intelligence Unit into an elite group of highly trained, dedicated professionals, who are recognized as the finest financial investigators in the world.

The Intelligence Unit quickly became renowned for the financial investigative skill of its special agents. It attained national prominence in the 1930s for the conviction of public enemy number one, Al Capone, for income tax evasion and its role in solving the Lindbergh kidnapping. From these promising beginnings the Intelligence Unit expanded over the intervening decades, investigating tax evasion by ordinary citizens, prominent businesspersons, government officials and notorious criminals.

In July 1978, the Intelligence Unit changed its name to Criminal Investigation (CI). Over the years CI's statutory jurisdiction expanded to include money laundering and currency violations, in addition to its traditional role in investigating tax violations. However, Criminal Investigation's core mission remains unchanged. It continues to fulfill the important role of helping to ensure the integrity and fairness of our nation's tax system.

Since CI's inception in 1919 to the present, the conviction rate for federal tax prosecutions has never fallen below 90 percent. This is a record of success that is unmatched in federal law enforcement. Not only do the courts hand down substantial prison sentences, but those convicted must also pay fines, civil taxes and penalties.

Overview

IRS Criminal Investigation (CI) is comprised of approximately 4,400 employees worldwide, approximately 2,800 of which are special agents whose investigative jurisdiction includes tax, money laundering and Bank Secrecy Act laws. While other federal agencies also have investigative jurisdiction for money laundering and some bank secrecy act violations, IRS is the only federal agency that can investigate potential criminal violations of the Internal Revenue Code ("the Code").

Compliance with the tax laws in the United States relies heavily on self-assessments of what tax is owed. This is called "voluntary compliance." When individuals and corporations make deliberate decisions to not comply with the law, they face the possibility of a civil audit or criminal investigation, which could result in prosecution and possible jail time. Publicity of these convictions provides a deterrent effect that enhances voluntary compliance.

As financial investigators, CI special agents fill a unique niche in the federal law enforcement community. Today's sophisticated schemes to defraud the government demand the analytical ability of financial investigators to wade through complex paper and computerized financial records. Due to the increased use of automation for financial records, CI special agents are trained to recover computer evidence. Along with their financial investigative skills, special agents use specialized forensic technology to recover financial data that may have been encrypted, password protected or hidden by other electronic means.

Strategic Priorities

The CI strategic plan is comprised of three interdependent programs: Legal Source Tax Crimes; Illegal Source Financial Crimes; and Narcotics Related Financial Crimes. These three programs are mutually supportive and encourage utilization of all statutes within CI's jurisdiction, the grand jury process and enforcement techniques to combat tax, money laundering and currency crime violations. CI must investigate and assist in the prosecution of those significant financial investigations that will generate the maximum deterrent effect, enhance voluntary compliance and promote public confidence in the tax system.

Where TAS cannot provide a remedy for taxpayers because of deficiencies in administrative procedures or barriers imposed by the tax law, TAS will propose administrative solutions or legislative changes, as appropriate.

Taxpayer Advocate Service (TAS)

Mission

The Taxpayer Advocate Service helps taxpayers resolve problems with the IRS and recommends changes to prevent the problems.

The Internal Revenue Service Restructuring and Reform Act of 1998 (RRA '98) amended Code Secs. 7803 and 7811, creating the position of the National Taxpayer Advocate and strengthening the Taxpayer Advocate organization by making it independent within the IRS. In the spirit of the legislation and the IRS's modernization, the Advocate Organization was restructured, the mission statement revised and the organization renamed the Taxpayer Advocate Service. The Taxpayer Advocate Service (TAS) officially transitioned as a modernized organization on March 12, 2000.

TAS fulfills its mission through taxpayer casework and advocacy initiatives. TAS handles not only cases in which a taxpayer is suffering or about to suffer a significant hardship, but also cases in which the taxpayer, while not experiencing a hardship, would benefit from the involvement of TAS. Where TAS cannot provide a remedy for taxpayers because of deficiencies in administrative procedures or barriers imposed by the tax law, TAS will propose administrative solutions or legislative changes, as appropriate.

Unlike most of the IRS, the TAS continues to be a geographically based organization. The field organization consists of nine Area TAS Directors, seven of whom oversee casework by Local Taxpayer Advocates in assigned territories, and two of whom oversee casework from Local Taxpayer Advocates in service centers. The field organization also includes two Operating Division Taxpayer Advocates, who are re-

sponsible for systemic analysis and advocacy. Both the Area Taxpayer Advocate Directors and the Operating Division Taxpayer Advocates report directly to the National Taxpayer Advocate. Seventy-four Local Taxpayer Advocates report to the Area Taxpayer Advocate Directors and are responsible for handling taxpayer cases at the local level.

Since TAS is structured around geographic, rather than taxpayer, segments, Taxpayer Advocates handle all categories of taxpayer issues, irrespective of the subject matter, in their assigned territories. Thus, all taxpayers in a specific locality will go to the same advocate office, whether the taxpayer is a small business, a large corporation, a wage earner or a government entity. Local and area advocates will deal primarily with casework issues, *i.e.*, issues involving specific taxpayers rather than broad organizational issues.

Broad organizational issues will be handled by the Advocacy Analysts assigned to, and remotely managed by, the Operating Division Taxpayer Advocates. Advocacy issues are generally those issues that impact a large segment of taxpayers or are issues that recur with some frequency. Depending on the nature of the problem presented, Advocacy Analysts will recommend either administrative solutions to the IRS or legislative solutions to the Congress through the National Taxpayer Advocate's Annual Report.

Issues involving the Taxpayer Advocate should be set forth on IRS Form 911 which could then be mailed or faxed to the local Taxpayer Advocate office. Form 911 requires the TAS to determine if a significant hardship exists and whether actions can be taken to relieve the hardship. Significantly, the TAS attempts to resolve taxpayer problems that

may not otherwise be resolved through normal IRS procedures.

When should the TAS be contacted? If the taxpayer is about to suffer significant hardship, faces an immediate threat of adverse action, may suffer irreparable injury or long-term consequences, has experienced a significant delay of more than 30 days in an effort to resolve an issue or has not received a response or solution in a timely manner from the IRS. Contact the TAS if you have an ongoing issue with the IRS that has not been resolved through the normal administrative processes, or you have suffered, or are about to suffer, a significant hardship as a result of the administration of the tax laws. Once contacted, the TAS will assign a “case advocate” to the matter. The TAS is not a substitute for established IRS procedures or the formal administrative processes (compliance-appeals, *etc.*).

The OPR investigates allegations of misconduct or negligence against tax practitioners and enforces the standards of practice for those who represent taxpayers before the IRS, as detailed in Circular 230.

Office of Professional Responsibility (OPR)

Mission

Foster excellence in tax professional services by setting, communicating, and enforcing standards of competence, integrity and conduct.

What is the OPR?

The OPR administers the laws for the practice of attorneys, certified public accountants, enrolled agents, enrolled actuaries and appraisers before the IRS as set forth in Treasury Department Circular No. 230 (Circular 230 provides the regulations governing the practice of attorneys, CPAs, enrolled agents, enrolled actuaries, and appraisers before the IRS). In addition, OPR reviews applications from individuals who wish to become an enrolled agent or enrolled actuary, who are tax professionals meeting certain testing or experience requirements. The Director of OPR sits on the IRS Enforcement Committee, a panel of senior agency executives, who meet regularly to develop strategies on the top compliance problems facing the IRS. OPR is also charged conducting a broad review of the IRS's overall relationship with the practitioner community.

OPR was established in January 2003 as the successor office to the former IRS Director of Practice organization. Some differences between OPR and the former Director of Practice Office are that OPR has a redefined mission, additional staffing and a different reporting structure—OPR reports directly to the Deputy Commissioner, Service and Enforcement. The thrust of IRS enforcement efforts have been expanded to include issues having a greater impact on tax administration. The OPR Licensure and Education unit ad-

ministers the Special Enrollment Examination for those who wish to become enrolled agents, processes applications for enrollment and monitors enrolled agent continuing professional education. The OPR Enforcement units handle all disciplinary matters and potential denials of applications for enrollment.

What types of behavior could subject a tax practitioner to be sanctioned by the OPR?

The OPR investigates allegations of misconduct or negligence against tax practitioners and enforces the standards of practice for those who represent taxpayers before the IRS, as detailed in Circular 230. In general, there are four broad categories of misconduct, which may be subject to disciplinary action: (1) misconduct while representing a taxpayer; (2) misconduct related to the practitioner's own return; (3) giving a false opinion, knowingly, recklessly or through gross incompetence; and (4) misconduct not directly involving IRS representation.

Communications & Liaison Division

Mission

Supports the IRS mission and business objectives using strategic relationship management, communication tools and processes, resolution of issues of mutual concern, and information sharing.

The Office of Communications is the focal point for planning, coordinating and producing IRS-wide communications. It provides a wide range of expertise, products and services to help achieve business out-

comes through communications within and outside the agency. The office works with national and local media to enhance the public's understanding of the IRS and its mission, programs and policies; manages national media campaigns to help the IRS meet its goals and business objectives; manages voicemail and Intranet channels for communicating with all IRS employees; and produces interactive video teletraining and operates a satellite television network that reaches 135 IRS offices nationwide.

Strategic Priorities

The Communication and Liaison Division enables IRS business objectives by supporting the operating and functional divisions' major strategies and operational priorities; ensures that communications with customers, Congress and stakeholders are consistent and coordinated IRS-wide and integrate stakeholder relationship management in the day-to-day operations of the agency; ensures a quality work environment that is operationally efficient and effective, including an emphasis on automating business processes; and ensures the appropriate collection, use and protection of information to accomplish IRS business objectives.

Understanding IRS Guidance— A Brief Primer

For anyone not familiar for the inner workings of tax administration, the array of IRS guidance may seem, well, a little puzzling at first glance. To take a little of the mystery away, here's a brief look at seven of the most common forms of guidance.

In its role in administering the tax laws enacted by the Congress, the IRS must take the specifics of these laws and translate them into detailed regulations, rules and procedures. The Office of Chief Counsel fills this crucial role by producing several different kinds of documents and publications that provide guidance to taxpayers, firms and charitable groups.

Regulation

A regulation is issued by the IRS and the Treasury to provide guidance for new legislation or to address issues that arise with respect to existing Code sections. Regulations interpret and give directions on complying with the law. Regulations are published in the Federal Register. Generally, regulations are first published in proposed form in a Notice of Proposed Rulemaking (NPRM). After public input is fully considered through written comments, and even a public

hearing, a final regulation or a temporary regulation is published as a Treasury Decision (TD), again, in the Federal Register.

Revenue Ruling

A revenue ruling is an official interpretation by the IRS of the Code, related statutes, tax treaties and regulations. It is the conclusion of the IRS on how the law is applied to a specific set of facts. Revenue rulings are published in the Internal Revenue Bulletin for the information of and guidance to taxpayers, IRS personnel and tax professionals. For example, a revenue ruling may hold that taxpayers can deduct certain automobile expenses.

Revenue Procedure

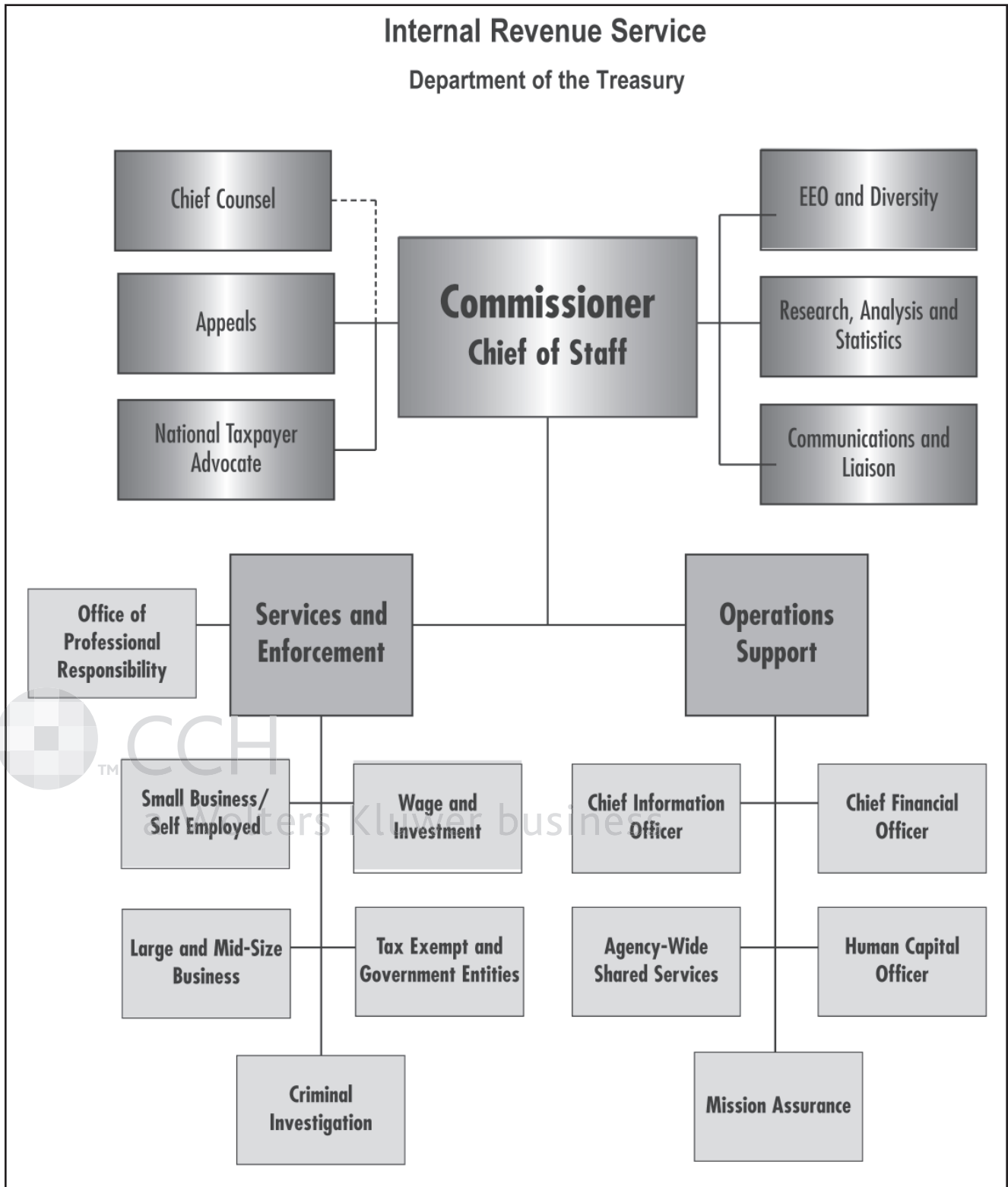
A revenue procedure is an official statement of a procedure that affects the rights or duties of taxpayers or other members of the public under the Code, related statutes, tax treaties and regulations and that should be a matter of public knowledge. It is also published in the Internal Revenue Bulletin. While a revenue ruling generally states an IRS position, a revenue procedure provides return filing or other instructions concerning an IRS position. For example, a revenue procedure might specify how those entitled to deduct certain automobile expenses should compute them by applying a certain mileage rate in lieu of calculating actual operating expenses.

Private Letter Ruling

A private letter ruling, or PLR, is a written statement issued to a taxpayer that interprets and applies tax laws to the taxpayer's specific set of facts. A PLR is issued to establish with certainty the federal tax consequences of a particular transaction before the transaction is consummated or before the taxpayer's return is filed. A PLR is issued in response to a written request submitted by a taxpayer and is binding on the IRS if the taxpayer fully and accurately described the proposed transaction in the request and carries out the transaction as described. A PLR may not be relied on as precedent by other taxpayers or IRS personnel. PLRs are generally made public after all information has been removed that could identify the taxpayer to whom it was issued.

Technical Advice Memorandum

A technical advice memorandum, or TAM, is guidance furnished by the Office of Chief Counsel upon the request of an IRS director or an area director of



Appeals, in response to technical or procedural questions that develop during a proceeding. A request for a TAM generally stems from an examination of a taxpayer's return, a consideration of a taxpayer's claim for a refund or credit, or any other matter involving a specific taxpayer under the jurisdiction of the territory manager or the area director of Appeals. Technical Advice Memoranda are issued only on closed transactions and provide the interpretation of proper application of tax laws, tax treaties, regulations, revenue rulings or other precedents. The advice rendered represents a final determination of the position of the IRS, but only with respect to the specific issue in the specific case in which the advice is issued. Technical Advice Memoranda are generally made public after all information has been removed that could identify the taxpayer whose circumstances triggered a specific memorandum.

Notice

A notice is a public pronouncement that may contain guidance that involves substantive interpretations of the Code or other provisions of the law. For example, notices can be used to relate what regulations will say in situations where the regulations may not be published in the immediate future.

Announcement

An announcement is a public pronouncement that has only immediate or short-term value. For example, announcements can be used to summarize the law or regulations without making any substantive interpretation, to state what regulations will say when they are certain to be published in the immediate future or to notify taxpayers of the existence of an approaching deadline.

Federal Oversight Organizations

GAO: The Government Accountability Office (GAO) is an agency that works for Congress and the American people. Congress asks GAO to study the programs and expenditures of the federal government. GAO, commonly called the investigative arm of Congress, or the congressional watchdog, is independent and nonpartisan. It studies how the federal government spends taxpayer dollars. www.gao.gov/

OMB: The Office of Management and Budget (OMB) assists the President in the development and implementation of budget program, management and

regulatory policies. It conducts in-depth regulatory review of significant rules proposed by federal agencies, as well as promotes best practices management across the federal government. www.whitehouse.gov/omb/

TIGTA: The Treasury Inspector General for Tax Administration (TIGTA) provides audit and investigative services that promote economy, efficiency and integrity in the administration of the internal revenue laws. www.treas.gov/tigta/index.shtml

Advisory/Advocacy Organizations

ETAAC: The Electronic Tax Administration Advisory Committee (ETAAC) conveys the public's perceptions of the IRS electronic tax administration activities; offers constructive observations about current or proposed policies, programs and procedures; and suggests improvements. The ETAAC provides an organized public forum for discussion of electronic tax administration issues in support of the overriding goal that paperless filing should be the preferred and most convenient method of filing tax and information returns.

IRPAC: The Information Reporting Program Advisory Committee (IRPAC) advises the IRS on information reporting issues of mutual concern to the private sector and federal government. The Committee works with IRS executives to provide information and recommendations on a range of issues regarding information reporting administration. The IRPAC's advice is used to assist in the execution of IRP objectives while ensuring fairness to taxpayers.

IRSAC: The Internal Revenue Service Advisory Council (IRSAC) conveys the public's perception of IRS's activities. The IRSAC provides an organized public forum for IRS officials and representatives of the public to discuss relevant tax administration issues. The Council advises the IRS on issues that have a substantive effect on federal tax administration.

Taxpayer Advocacy Panel: The Taxpayer Advocacy Panel (TAP) listens to taxpayers, identifies taxpayers' issues and makes suggestions for improving IRS service and customer satisfaction. The TAP acts as a two-way conduit, serving as a focus group for the IRS, providing input on strategic initiatives, as well as providing a venue for raising issues identified by citizens.

The IRS Oversight Board: The IRS Oversight Board is an independent body charged to provide the IRS with long-term guidance and direction. Since it began its operations in September 2000, the Board has sought the views and insights of those who work regularly with the IRS. www.treas.gov/irsob/

Congressional Oversight Committees

Senate Committee on Finance, Subcommittee on Taxation and IRS Oversight: www.senate.gov/~finance/
House Committee on Ways and Means, Subcommittee on Oversight: <http://waysandmeans.house.gov/>

This article is reprinted with the publisher's permission from the JOURNAL OF TAX PRACTICE & PROCEDURE, a bi-monthly journal published by CCH, a Wolters Kluwer business. Copying or distribution without the publisher's permission is prohibited. To subscribe to the JOURNAL OF TAX PRACTICE & PROCEDURE or other CCH Journals please call 800-449-8114 or visit www.CCHGroup.com. All views expressed in the articles and columns are those of the author and not necessarily those of CCH.



CCHTM

a Wolters Kluwer business