

Overview of Tax Practice and Procedure

By Claudia Hill, Charles P. Rettig and William P. Wiggins

Hill, Rettig and Wiggins offer an excerpt from Chapter 1 of the CCH Expert Treatise: Tax Practice and Procedure.

In a tax practice, everything is fine...until it isn't! Experienced practitioners know to expect the unexpected since client-related tax problems tend to arise at the most inopportune moments, such as at the height of tax return filing season or during an examination of a tax return. However, although often struggling with deadlines and sometimes recalcitrant clients, a tax practice should be an enjoyable, rewarding experience. Tax practitioners provide their clients with an objective, knowledgeable review of financial information that is ultimately presented to the government in the form of a tax or information return. If the client has provided timely, complete responses to the practitioner's requests for information, the examination or collection process should be fairly smooth and straightforward.

It is extremely important to have a working knowledge and appreciation for the administrative process in which tax returns are filed, reviewed and examined. This knowledge allows the practitioner an opportunity to provide an efficient, invaluable service to his clients and to the system of tax administration. The administrative process should not be abused merely because of the taxpayer's desire to delay the determination and collection of any potential liability. Collection-related issues should be sorted out through an installment payment arrangement that would be negotiated through the normal collection process following conclusion of the audit

process. Unfortunately, there is a reason many people become clients, and it is not because they routinely coordinate all relevant information necessary to the preparation of a return nor do they routinely provide such information in a timely manner.

IRS Examination Procedures Are Continually Evolving

Historically, IRS examiners were assigned to examine taxpayers in many different industries. One day, an examiner audited a grocery store, and on the following day, the examiner may have audited a computer retailer or a medical doctor. As a result, experience gained in one audit did not significantly enhance the examiner's experience for purposes of conducting other audits. Further, these examinations missed various compliance issues lurking within layers upon layers of related limited liability companies, partnerships, trusts, private foundations, etc. Based on their professional experience and training, examiners reviewed sufficient documents and information to determine the accuracy of the taxpayer's return. The amount of documents/information to be reviewed and the depth of the examination has been a matter of professional judgment based on the information developed—or not—during the examination.

More recently, the IRS has been attempting to identify and reduce noncompliance through efficiency, tax form simplification, streamlined procedures and initiatives, education and enforcement. In addition, the IRS has significantly modified its examination process in a manner designed to increase the available resources and experience of its examiners. In complex matters, the IRS can be expected to bring together a team of specialists to coordinate the examination of the taxpayer and all related entities. The

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government is utilizing vast resources in an effort to unwind the complex legal structures behind sophisticated domestic and foreign business and investment arrangements. The examination process is changing with the times, globally and electronically. Practitioners should respect the changing environment and exercise their best efforts to enhance the system of voluntary compliance.

Best Tax Practice Advice

A practitioner cannot know everything that one's client will expect the practitioner to know. However, a practitioner should be able to "issue spot" matters within his field of expertise and, to a lesser extent, matters outside his field of expertise. The Internet may be a practitioner's best initial resource. There is a tremendous amount of information available on the Internet for the IRS and various state taxing authorities. Get comfortable in accessing their sites. Tax people need to be sensitive to non-tax issues. Otherwise, resolution of a tax dispute might inadvertently set up a securities case, a money-laundering structuring case, etc. against one's client.

Engagement letters for tax-related matters should specify the scope and terms of the engagement. Services rendered should be within the scope of the engagement as clearly set forth in the engagement letter. If additional services are to be provided, additional engagement letters should be obtained. If a client relationship is terminated for any reason, written confirmation of the termination should be promptly provided to the client and the opposition. If the government has been involved, the government should also be clearly advised of the termination of the client relationship.

When preparing returns for a Schedule C taxpayer or a taxpayer involved in a cash intensive business (restaurant, bar, etc.), consider preparation of a simple bank deposit analysis. The analysis should add the deposits for the 12-month period under consideration and for the month immediately preceding and following the period involved. That figure should then be divided by 14 and multiplied by 12 to determine an approximation of an amount deposited during the year. If the total deposits bear no relation to reported gross receipts, further inquiry may be warranted, which might include a more in-depth bank deposits analysis, a cash expenditures analysis, a net worth analysis and/or a mark-up analysis.

When involved in the preparation of returns for a taxpayer having other return filing requirements (sales tax returns, etc.), request copies of all other relevant returns for the tax period(s) at issue. Often, businesses prepare certain returns internally and seek to have others prepared by their outside tax advisors. "Gross receipts" on sales tax returns for the same tax period as an income tax return should be somewhat comparable. If the practitioner has not received copies of all related returns, he should ask for them.

One should be familiar with IRS Audit Technique Guides (ATG) when providing tax advice, preparing tax returns, preparing for an IRS examination and when preparing a client for an interview with the government. There are many publicly available ATGs that have been prepared by the IRS.¹ The ATGs coupled with the ongoing efforts of IRS examiners to become specialists are designed to improve compliance by focusing on taxpayers as members of particular groups. Each ATG instructs the examining agent on typical methods of auditing a particular group of taxpayer, including typical sources of income, questions to be asked of the taxpayer and his representative during the audit, etc. These groups have been defined by type of business (*i.e.*, gas stations, grocery stores, etc.), technical issues (passive activity losses), types of taxpayer (*i.e.*, returns lacking economic reality) or method of operation (*i.e.*, cash businesses). A practitioner should not blindly proceed with an examination without being generally familiar with any potentially relevant IRS ATGs. Effective representation requires the ability to utilize all available resources, including the ATGs. Often, it may be beneficial to review relevant ATGs earlier in the process...perhaps while preparing the return. Preparers representing clients in an industry or having issues covered by an ATG should consider thoroughly reviewing the ATG with the client, before the return is filed.

It is generally advisable to attempt to resolve any civil tax dispute at the earliest opportunity. A lengthy examination may be costly from the perspective of the expenditure of time and effort involved, as well as the taxpayer's degree of frustration with the normal administrative process. Further, a prolonged audit is more likely to uncover potentially sensitive issues that could generate increased tax deficiencies, penalties or the possibility of criminal sanctions. Collection-related issues should be sorted out through an installment payment arrangement that would be negotiated through the normal collection process following conclusion of the audit process.

It is often advisable to submit a request under the Freedom of Information Act (FOIA) following the unagreed resolution of a federal tax examination. It should also help tailor discussions at the next administrative level while providing insight into what the next government representative assigned to the case will be reviewing. The process is relatively simple and inexpensive.²

A question often presented is whether the taxpayer and others should consent to interviews by the government during an examination, force the issuance of Summonses or invoke various Constitutional protections. The government typically seeks to interview taxpayers near the commencement of

an examination. Unfortunately, at that time, the practitioner typically does not have sufficient information to determine whether there are potentially sensitive issues that might arise during an interview of the taxpayer. If possible, it is often preferable to postpone a taxpayer interview if the practitioner is otherwise able to provide prompt responses to relevant inquiries. If it occurs, the interview should be held toward the end of the examination, possibly with an understanding that if the taxpayer submits to an interview and answers the questions, the government will proceed to close the examination. However, the practitioner must take extreme caution, since such an understanding is not likely a basis for challenging the use of statements from the interview in a subsequent proceeding. Under any situation, the representative must prevent presentation of false or misleading information or the presentation of false statements by the taxpayer or the taxpayer's representative.

A better-equipped IRS has been able to ferret out potentially sensitive issues in a manner often compromising the relationship between a taxpayer and his non-lawyer tax practitioner. If there are potentially sensitive issues, the taxpayer should be interviewed by counsel in order to determine whether there is a need to fully preserve potentially privileged information. In turn, counsel should consider engaging the accountant to coordinate the examination on behalf of the taxpayer. Under the doctrine of *L. Kovel*,³ the investigative accountant may be clothed with an extension of the attorney's privilege.

Although there are various "badges of fraud," civil examining agents are more inclined to consider a criminal referral⁴ if there is a substantial unexplain-

able understatement of taxable income, fictitious or improper deductions, accounting irregularities (occurring in more than one year), acts or conduct of the taxpayer relating to false statements, attempts to hinder the examination, destruction of books and records, transfers of assets for purposes of concealment, or patterns of consistent failure to report or under-reporting of income. Certain behavior patterns on the part of the examiner may indicate that he is considering a criminal referral—excessive time devoted to the audit; extensive copying of basic financial

records, bank records, accountant work papers, etc.; or attempts to determine the taxpayer's net worth over a period of several years. The highest

value in any criminal tax prosecution is deterrence of other similarly situated taxpayers. The threat of potential prosecutions for those who are technically deficient and somewhat confused has a significant negative effect on the future of the voluntary compliance system.

It is often a good practice to provide an extension of the applicable statute of limitations during the course of any audit or examination. However, it is also good practice to have extensions signed by the client, rather than the client's authorized representative (even though authorized by a power of attorney). Years later, the client may not recall having given authorization to extend the statute of limitations. If his signature is on the extension (Form 872), the situation will not likely escalate. Further, it is almost always preferred to sign a limited extension with a specified expiration date (Form 872) rather than an indefinite extension for an unspecified term (Form 872-A).

The practitioner should reasonably attempt to limit the scope of the inquiry and limit the information provided during an examination so as to avoid the waiver of any potential privileges. If matters are privileged, the correspondence and relevant files should be appropriately labeled. Be aware of any potential privileges that may apply and make sure not to inadvertently waive any privilege. Separate files should be maintained for relevant documents that might be requested by the IRS and documents that contain potentially confidential, privileged information. It is important to know exactly which documents are deemed important to the IRS. Copies of documents provided during the course of the examination should be made in duplicate—one copy for the IRS and an

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extra copy to be maintained in a separate audit file specifically identifying documents provided during the course of the audit.

The practitioner should be careful not to inadvertently exceed the scope of his license or experience. At a minimum, a non-lawyer representative should strongly recommend that a client consult counsel with the admonition that discussions held between a client and a non-lawyer may have to be disclosed in the event of a criminal investigation or prosecution. Code Sec. 7525

does not protect information provided to the non-lawyer representative from disclosure in a criminal investigation or prosecution.⁵

If an examination problem seems overwhelming, consider contacting the Taxpayer Advocate Service (TAS). TAS is an independent organization within the IRS whose employees assist taxpayers who are experiencing economic harm, who are seeking help in resolving tax problems that have not been resolved through normal channels or who believe that an IRS system or procedure is not working as it should.

Be Cognizant of the Potential for Penalties

In 1954 there were 14 civil penalties set forth within the Internal Revenue Code. Today, the Code is a minefield containing more than 130 potentially applicable civil penalties. Penalties are to be administered in a manner intended to encourage voluntary compliance and discourage intentional or reckless noncompliance. Inadvertent or excusable error should not be punished to the same degree, if at all, as willful misconduct. In this environment where many continue to call for simplification and fairness in penalty administration, taxpayers and practitioners are held to various standards of knowledge and responsibility based on the particular facts and circumstances involved.

Similar cases and similarly-situated taxpayers are to be treated in a similar manner with each having the opportunity to have their interests heard and considered. Penalty relief is to be viewed from the perspective of fair and impartial enforcement of the tax

laws in a manner that promotes voluntary compliance. Penalties encourage voluntary compliance by defining standards of compliant behavior, defining consequences for noncompliance, and providing monetary sanctions against taxpayers who do not meet the standard. In this regard, penalty administration is intended to be severe enough to deter non-compliance, encourage noncompliant taxpayers to comply, be objectively proportioned to the offense, and be used as an opportunity to educate taxpayers and encourage their future compliance.

Reasonable cause can often be a defense to the imposition of penalties following an analysis of all relevant facts and circumstances. Reasonable cause relief is generally granted when the taxpayer exercises ordinary business care and prudence in determining his tax obligations but nevertheless failed to comply with those obligations. Ordinary business care and prudence includes making provisions for business obligations to be met when reasonably foreseeable events occur.

In certain situations, reliance on the advice of others may justify relief from penalties for the taxpayer. Information to consider when evaluating a request for abatement or non-assertion of a penalty due to reliance on advice includes, but is not limited to, a determination of whether the advice was in response to a specific request and was the advice received related to the facts contained in that request and if the taxpayer reasonably relied upon the advice. Taxpayers who carelessly or recklessly ignore their responsibilities will be appropriately penalized. Those who appropriately respect their obligations to our system of taxation should be cautioned and educated about their present and future tax compliance without having to waltz through an almost unintelligible legislative minefield of civil tax penalties.

Be Cognizant of the Potential for Preparer Penalties and Sanctions

The 2009-2013 IRS Strategic Plan⁶ includes an objective of ensuring that “all tax practitioners, tax preparers, and other third parties in the tax system adhere to professional standards and follow the law.” Possibly more than in any other profession,

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tax practitioners are required to participate in extensive, ongoing training and education to keep pace with highly complex, ever-changing statutory and case authorities. Cases issued in the morning might impact positions in returns filed later that afternoon. The IRS has recently been issuing various internal memoranda focusing its field operations on the possible imposition of practitioner penalties during the course of examining a tax return. Since a purpose in proposing and assessing return preparer penalties is to encourage accountability, affect behavior and increase voluntary compliance, examiners are now generally required to comment on preparer penalties as a material part of the examination process.

Tax practitioners are sophisticated specialists operating in a complex world of statutory and case authorities monitored by a government that historically respected their dedication and professionalism. Recent statutory changes to Code Sec. 6694 and newly released regulations are changing the relationship between practitioners, their clients and the IRS. Issues for the practitioner often arise as a result of:

1. *Inappropriate reliance on (a) information provided by the taxpayer, (b) unreasonable factual assumptions or (c) positions in returns prepared by others.* Did you act in good faith and exercise your best efforts?
2. *Inability to control client expectations.* Often the client is overly aggressive and unwilling to consider an objective view of the facts in a manner that could compromise the professional relationship between the client and the accountant. There must be an objective analysis of relevant facts leading to any position set forth in a return or provided to the government during an examination.
3. *Failure of the client to understand the nature and scope of the inquiry.* Remote relationships with clients are difficult, at best. A client's interpretation of your question may well differ from yours. Communicating by phone or electronically precludes the knowledge gained by looking someone in the eyes when asking direct, important questions.
4. *Failure to expect the unexpected.* Preparation is a key to success. Are you prepared to handle the issues presented? Lack of diligence in representation, before and during the examination of a return, will adversely affect the outcome of any examination. Failure to inquire about additional facts, to discover contrary legal authorities, to review large, unusual or questionable items in the return, to review prior year returns and potentially applicable IRS Audit Technique Guidelines or to identify sensitive issues or "patterns" over multiple years can be the difference between a reasonable resolution and someone going to Club Fed (*i.e.*, prison).
5. *Lack of reasonable cooperation or the failure to provide timely responses during an examination.* Practitioners should attempt to cooperate with the examiner in a timely manner. An audit need not be adversarial and the practitioner must maintain appearance of reasonableness throughout the entire process. The examination should not be prolonged simply because the taxpayer is unable to satisfy any resulting deficiency. Practitioners can be subjected to discipline for unreasonably delaying the examination process.
6. *Government interviews of an unprepared taxpayer or return preparer.* Is an interview of the taxpayer or return preparer necessary and unavoidable? Government interviews of the taxpayer or return preparer can create awkward moments during an examination, especially if there has been a lack of preparation. If necessary, interviews should be limited in scope and duration.
7. *Failure to anticipate conflicts of interest.* There are many potential conflicts of interest that can arise during return preparation or the examination process. The practitioner is often unaware a spouse may be considering a divorce or a business relationship may be falling apart. Conflicts can often be avoided by receipt of a timely, knowing and intelligent waiver. However, if things get tough, someone is likely to contest the "knowing" and "intelligent" waiver. Was counsel involved in the waiver process? Did one party feel economically compelled to sign the waiver?
8. *General lack of experience or competency to handle the issues presented.* Were you competent to prepare the return or handle the representation? Being an effective practitioner does not mean you can be all things to all people. Know your limitations and consult your colleagues when you are unsure of any issue. In a profession, professionals help other professionals. Respect those who reach out for assistance and pity those who are embarrassed to do so.
9. *Failure to properly disclose questionable positions within a return.* Have potentially

questionable issues been properly disclosed in a return? Form 8275 and Rev. Rul. 2010-15 represent an opportunity to explain, in single syllable words, why the potentially questionable position is not questionable. Disclosures must be adequate and easily understood by anyone reviewing the return. They should not be subject to being interpreted as misleading or incomplete.

10. *Inadvertent waiver of potential privileges.* Privileges are only important when needed the most. Practitioners should have a general awareness of all potentially applicable privileges. When in doubt, ask a colleague for advice.
11. *Termination of the client relationship and the failure to return client records.* Terminating your relationship with a difficult or non-responsive client can be a rewarding experience. When terminating a client relationship, consider returning all client records and remember to notify the government that any outstanding authorizations to receive client information or represent the client have been terminated. Arguing over the return of client records to receive payment for delinquent fees might be rewarded with an unwarranted claim for malpractice. Your other clients deserve your attention and a redirection of your efforts to such clients will be more rewarding over time. Cut your losses and move on ...or consider referring the difficult client to your business competitors.
12. *Inadequate internal office supervision.* Enough said.
13. *Unauthorized use of return information.* Return preparers who “knowingly or recklessly” make “unauthorized disclosures or use” of “information furnished in connection with the preparation of an income tax return” are subject to criminal sanctions (i.e., imprisonment!). “Preparers” include those engaged in preparing or assisting in preparing tax returns, including those who provide auxiliary services such as developing software to prepare or e-file a return. “Tax Return Information” includes everything received to prepare the return plus computations, worksheets and printouts created by the preparer. If uncertain, review Rev. Proc. 2008-35⁷ and Reg. §301.7216-1, et seq. for further information and *pro forma* taxpayer consent forms. Code Sec. 7216 was implemented for a purpose. Don’t let that purpose be you.

Preparer penalty issues will most often arise during or at the conclusion of an IRS examination of the taxpayer’s return when some or all of an undisclosed or improperly disclosed position has been disallowed. Is it reasonable to believe that an agent, having disallowed a questionable position, will be convinced there was “substantial authority” for the reported position? Also, most positions are comprised of several sub-positions. If each sub-position has a 40-percent chance of success on the merits, the primary position will not likely also have a 40-percent chance of success on the merits (40 percent of 40 percent of 40 percent is not an overall 40 percent chance of success on the merits for that position).

Always maintain the appearance of reasonableness ... even in times where the government may appear to be anything but reasonable. Practitioners should assume the IRS will conduct its examinations and pursue collection activities in a professional, albeit sometimes aggressive, manner in its efforts to collect tax revenues. If you have problems with an IRS agent during the course of an examination, ask to speak to his manager. If you have problems, it is likely that other representatives have previously had similar discussions with the agent’s manager. While the manager may appear to be supporting the agent when meeting with you, it is also likely that the manager will have a direct conversation with the agent outside your presence and that your future interactions with the agent will be significantly improved. The most significant benefit you provide in an examination is your personal integrity, reputation and credibility. Never allow anything to possibly put a dent in that armor.

For the practitioner, the most relevant penalty issue is the reasonableness of his belief in the position reported on the return, not the likelihood it will prevail. Be diligent and do your homework. There are no shortcuts to being prepared or providing tax advice. Tax practitioners are engaged for the purpose of appropriately minimizing taxes for their clients. Resolution of possible preparer penalty issues often depends upon the effort expended in determining and analyzing the relevant facts and authorities. If the position is disclosed, the information in the disclosure must be complete and accurate. Be a prepared preparer...disclose, disclose, disclose!

Current Tax Enforcement Priorities

The government is somewhat transparent in announcing current tax enforcement priorities. In part, such

announcements serve to positively modify taxpayer behavior for positions reported and/or disclosed on current and future returns. The international arena will continue to test the enforcement resources of the IRS for years to come. Issues regarding undeclared foreign source earnings and financial accounts (FBAR filings are due June 30 for the prior calendar year) will continue to generate considerable interest from the IRS and the Department of Justice. The IRS has long encouraged participation in the voluntary disclosure process for all taxpayers, those with interests in offshore accounts and otherwise. The Department of Justice has a somewhat similar policy regarding the non-prosecution of taxpayers who have made a timely voluntary disclosure.

Undeclared foreign accounts present a target rich environment for the government. Foreign financial institutions are not likely to test the strength and determination of the government in assuring compliance with the laws of the United States. The IRS is appropriately committed to enforcement concerning offshore accounts and the changing environment concerning bank secrecy may lead the government to many taxpayers with undisclosed interests in foreign financial accounts. For those with undeclared foreign accounts, now is the time to come into compliance—waiting is not a viable option.

Other current examination priorities based on a perceived degree of noncompliance include the potential abuse of mortgage interest limitations by claiming deductions exceeding limitations in multiple years; Code Sec. 1031 like-kind exchanges including the abuse and possible back-dating of documents intended to circumvent the 45-Day Rule; real estate dispositions in which the taxpayer is unable to adequately support the amount realized and the adjusted basis or fails to appropriately provide for the recapture of items when a negative capital account exists; employment tax and worker classifications where the IRS is conducting employment tax examinations including a focus on worker classification issues—independent contractor versus employee status—together with issues regarding executive compensation and fringe benefits; S-corporation examinations with an emphasis on determining the

built-in-gains tax focusing on asset valuations for the C-corporation assets on conversion to S-corporation status together with compensation for S-corporation officers; examinations involving sales of partnership interests will attempt to assure that reported interests match the actual ownership interests reflected in the partnership agreements, that income is properly recognized on distributions of

installment notes, and that debt cancellation, general income and expense items reported on partners' returns—including proper reporting from Forms K-1, is correctly reported.

Additional examination issues include NOL carry-forwards (taxpayers should

be prepared to fully document losses incurred in the recessionary economy of 2008-2012); examinations of estate and gift tax returns will continue to focus on valuations and discounts associated with closely-held entities and properties, fractional interests, sales that occur close to death, under-funded marital trusts and over-funded bypass trusts upon the death of the surviving spouse. For matters involving tax exempt organizations, the changes between the historical and the recently revised Form 990, *Return of Organization Exempt from Income Tax*, provide a roadmap of issues deemed important to the government, including executive compensation for senior management and key employees, conflicts of interest and—an old favorite—abuse of donor-advised funds. Non-filers, Schedule C taxpayers and “cash intensive” businesses provide a target-rich environment for the IRS. Finally, and of significant importance, return preparers and advisors provide a unique opportunity to leverage ongoing IRS compliance efforts that simply won't be ignored.

The Road Ahead

The practitioners must balance their duty of representation to the client with the professional responsibility to reasonably cooperate with the IRS examination process. Learn to appreciate the concern for the accountability of both government and private practitioners to the system of tax administration and to the profession—lessons not to be forgotten by any of us in these most difficult times. Practitioners should not underestimate the IRS's ability, desire and resources to examine tax returns and collect taxes.

You cannot be all things to all people, regardless of the effort and personal sacrifice. Lastly and perhaps most importantly, your client is not your friend ... if you feel the need for friends, get a dog!

Throughout, treat all government representatives with respect and act like the professional that you want others to know and respect. Do not mislead anyone, affirmatively or otherwise, at any time.

Many experienced, sophisticated practitioners continue to be involved with community and professional organizations and feel free to inquire of their colleagues when facing difficult or unusual issues in their practice. If asked, those within the tax profession will almost always provide extremely valuable insight and advice on issues that could be extremely important for you, your client and your reputation. If you do not have the experience or know the answer, find a competent colleague who is willing to assist you. Consider helping those who are otherwise unable to help themselves. Pro bono services, discounted services and sometimes “involuntary pro bono” services can actually be quite personally rewarding.

A busy tax practice can be surrounded by minefields. Use your best efforts and remind the client that a tax return is not an offer to negotiate with the government. Document your client advice in writing, limit the nature and scope of services to be provided in your engagement letter, establish a system of checklists (and follow the system) and use your best judgment. If the client is unwilling to accept and follow your advice, strongly consider terminating the engagement. Life is short and

the headaches of trying to convince someone to do the right thing may simply not be worth your effort. If you encounter an undeserving or possibly disrespectful client, let him go and move on with your practice. You cannot be all things to all people, regardless of the effort and personal sacrifice. Lastly and perhaps most importantly, your client is not your friend...if you feel the need for friends, get a dog!

ENDNOTES

- * This article is based on a Chapter of the CCH EXPERT TREATISE LIBRARY: TAX PRACTICE & PROCEDURE, authored by Claudia Hill, Charles P. Rettig and William P. Wiggins. The CCH EXPERT TREATISE LIBRARY: TAX PRACTICE & PROCEDURE brings together a variety of helpful features that enable you to effectively manage complex issues and provide accurate tax planning. To order by phone, call 1-888-CCH-REPS (888-224-7377). For more information on this treatise, and all of our available CCH Expert Treatise Library titles, please visit www.cchgroup.com/Treatise.
- ¹ Audit Technique Guides, see [http://talcutst.wolterskluwertal.com/scion/secure/index.jsp?RWICookieCheck=OK#page\[5\]](http://talcutst.wolterskluwertal.com/scion/secure/index.jsp?RWICookieCheck=OK#page[5]).
- ² The Freedom of Information Act, 5 USC §552. See Claudia Hill, Charles P. Rettig and William P. Wiggins, CCH EXPERT TREATISE LIBRARY: TAX PRACTICE & PROCEDURE, ¶ 5.08 for relevant information regarding the submission of a FOIA request and additional information is available at the IRS website by searching “FOIA.”
- ³ *L. Kovel*, CA-2, 62-1 USTC ¶9111, 296 F2d 918.
- ⁴ See Claudia Hill, Charles P. Rettig and William P. Wiggins, CCH EXPERT TREATISE LIBRARY: TAX PRACTICE & PROCEDURE, Chapter 14 for a detailed discussion of Criminal Tax Procedure.
- ⁵ *Id.*
- ⁶ <http://www.irs.gov/pub/irs-pdf/p3744.pdf>.
- ⁷ Rev. Proc. 2008-35, 2008-2 CB 132.

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