NUTS & BOLTS OF A SUCCESSFUL PRO BONO SETTLEMENT DAY
Today’s Panel

- Robb Longman, Longman & Van Grack LLC
- Chief Special Trial Judge Lewis Carluzzo, US Tax Court
- Tamara Borland, Program Director, LITC Program, Taxpayer Advocate Service
- Bruce Meneely, Division Counsel (SB/SE), IRS
- Jennifer Breen, Morgan Lewis & D.C. Center for Public Interest Tax Law
Settlement in the United States Tax Court

- Statistically 85-90% of cases docketed in the US Tax Court are resolved by settlement
- The majority of these cases settle fairly close to calendar call and trial
- “Settlement Days” have become more prevalent. These settlement days:
  - Help the parties arrive at settlement much earlier
  - Facilitate opportunities for self-represented taxpayers to meet with pro bono counsel in advance of calendar call
  - Educate self-represented taxpayers who do not settle about what to expect at calendar call and trial
  - Preserve resources of the parties and the court
Settlement Days – Efforts to Date

- Current Statistics
- Recent event in Washington DC garnered national press coverage and attendance by Commissioner Rettig.
- SB/SE creation of a Settlement Day working group
- ABA Tax Section partnership with Chief Counsel to promote opportunities for pro bono service
THE ELEMENTS OF A SETTLEMENT DAY
Elements of a Settlement Day

- **Timing of the event**
  - Weekday vs Weekend
  - Time of day of the event
  - When in the controversy cycle?

- **Location of the event**
  - IRS office
  - Clinic location or law firm offices
  - School or other neutral location, such as a library
  - IRS infrastructure and connectivity needs vs perception of IRS “turf”
Elements of a Settlement Day

• Administrative Considerations
  – Who will take the lead in organizing?
  – Who is responsible for scheduling appointments
  – How long should appointments be scheduled for?
  – How many volunteers are needed and who coordinates?

• Promotion of the event
  – How far in advance to begin promotion?
  – Preparation of invitation letter, what does it say and who mails it?
  – Telephone outreach
  – Other promotion such as TV, radio and newspaper
  – Use of social media?
Elements of a Settlement Day

• Who should attend?
  – Chief Counsel attorneys with settlement authority
  – Revenue Officers
  – Clinicians and other volunteer practitioners

• Possible other participants?
  – Appeals officers?
  – Tax Court’s role?

• Is advance preparation required?
  – Section 6103 concerns
  – What are counsel attorneys doing to prepare?
  – How can volunteers best prepare?
Elements of a Settlement Day

- The role of the volunteer
  - What does a volunteer need to bring?
  - What can a volunteer expect to occur?
  - Provision of short-term limited legal services and ABA Model Rule 6.5

- Special considerations for remote meetings
  - Use of Webex and skype
BUT WHAT IS THE MOST IMPORTANT ELEMENT?

THE TAXPAYER
How do we reach taxpayers and get them there?

- Impediments and experiences thus far
- Analysis conducted by SB/SE task force
- Possibilities to address?
- Is there a role for the Tax Court?
- Possible opportunities arising from the Taxpayer First Act
- What can the pro bono community do to help?
Looking ahead

- Partnership with ABA Tax Section and IRS Chief Counsel to organize and promote settlement days
- Development of joint training hosted by Tax Section
- Development of a Settlement Day Tool Kit with template documents and information on best practices
- Roll out of a series of days across the US this summer
- Focus groups and brainstorming sessions – Fall Meeting in San Francisco?
- Feedback, feedback, feedback!
Looking ahead - Limited Scope Appearance Rules?

- October 2018 Comments on Tax Court Rules relating to the appearance and representation before the Court
  - Views on need for limited scope appearance rule
  - Approach taken by drafters of the comments
  - Recommendations and draft Rule 24A

- Court’s Feedback and Update on consideration of recommendations