TAX DIVISION AND IRS CONFERENCE POLICIES AND PROCEDURES

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IRS CT COUNSEL CONFERENCE

- ADMINISTRATIVE INVESTIGATIONS
  - Conference Initiation
    - Counsel will extend invitation for a conference to taxpayer unless it is determined that a conference would serve no purpose, i.e., danger to a witness or risk of flight.
  - Timing –
    - Within 30 days of when CT Counsel receives the case.
  - Participants
    - SAC, CT Counsel attorney, taxpayer’s representative, taxpayer (optional)
IRS CT COUNSEL CONFERENCE

• **Substance of conference**
  - Provide agent’s recommendation as to charges, method of proof and computations.
  - Opportunity for taxpayer to provide evidence, defenses, explanations
  - Plea bargain, civil settlement, compromise of tax will not be considered.
  - Vicarious admissions made by taxpayer’s representative may be used in subsequent proceeding.

• **Sensitive cases**
  - Conference coordinated by headquarters attorney from Associate Chief Counsel’s office

• **Grand Jury cases**
  - No conference offered unless requested by US Attorney to DOJ Tax.
TAX DIVISION CONFERENCE

• Conference Initiation
  • Must be requested by taxpayer in writing.
    • Best practice is to request conference as soon as you are retained.
    • If conference request is received after Tax Division has referred the case to the USAO, the request will be denied.
  • Request will be granted if time and circumstances permit.
    • Tax Division seeks to review cases within 30 days of receipt, so a long delay in scheduling may result in conference being denied.
    • Tax Division may decline conference if taxpayer is a risk of flight or risk of harm to witnesses.
TAX DIVISION CONFERENCE

• Participants
  • Two Tax Division attorneys, taxpayer representative

• Substance of Conference
  • Tax Division attorneys will provide proposed charges, method of proof and criminal computations.
  • Admissions made by representative will not be used as vicarious admissions of the taxpayer at a subsequent criminal trial.
  • Government may develop investigative leads from information provided at the conference
  • Plea negotiations can occur in an administrative case.
CONSIDERATIONS FOR PRACTITIONERS

• Information provided by the government in both CT Counsel and Tax Division conferences for administrative cases will likely be the same.

• If method of proof is indirect, i.e., bank deposits, net worth, expenditures, focus on potential flaws in the application of the methodology or possible defenses, such as cash hoard or other nontaxable sources of deposits or expenditures.

• Present evidence of good faith reliance on experts.

• Argue jury appeal if appropriate.