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Annual Conference Scottsdale, AZ

**Current IRS Enforcement
Initiatives: An Update**

October 26 – 8:30 – 9:30 AM



Moderator



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- **The Inflation Reduction Act of 2022**
- **Tax provisions:**
 - 15% Minimum on large corporate book income (>1 Billion in revenue)
 - 1% buyback excise tax on corporate share buybacks (SPACs?)
 - Increase size and funding of IRS
- **New funding/enforcement priorities:**
 - The “who” of funding (IRS versus DOJ tax, which IRS divisions are seeing the benefit)
 - The “what” of funding (how much is there and what can it be used for: hardware, software, people, training?)
 - The “where” of funding (National Office/DC versus field offices, Exam, Appeals, Collection?)
 - Prominent enforcement initiatives of interest to businesses

IRS Funding Increases by Category	
Function	IRS Budget Increase
Enforcement	+\$45.6 billion
Operations Support	+\$25.3 billion
Business System Modernization	+\$4.8 billion
Taxpayer Services	+\$3.2 billion
Other	+\$0.7 billion
Total	+\$79.6 billion

IRS Funding Increases			
	Previous 10-Year Projections	Additional 10-Year Funding	Percentage Increase
Enforcement	\$66.0 billion	+\$45.64 billion	69%
Operations Support	\$47.6 billion	+\$25.33 billion	53%
Business System Modernization	\$3.1 billion	+\$4.75 billion	153%
Taxpayer Services	\$33.6 billion	+\$3.18 billion	9%
Total	\$150.3 billion	+\$78.90 billion	+52%

Enforcement funding (\$46 Billion)

- Determine and collect owed taxes.
- Provide legal and litigation support.
- Conduct criminal investigations.
- Provide digital asset monitoring and compliance activities.
- Enforce criminal statutes related to violations of internal revenue laws and other financial crimes.
- Purchase passenger motor vehicles.
- Increase hiring.

IRS funding for Operation Support (\$25.3 Billion)

- Support taxpayer services and enforcement programs.
- Rent payments; facilities services; printing; postage; physical security; headquarters and other IRS-wide administration activities.
- Research and statistics of income.
- Telecommunications and information technology development including, maintenance, and security.
- Passenger motor vehicles.
- Increase hiring.

Business system modernization (\$4.6 Billion)

- Development of callback technology and other technologies.
- Provide a more personalized customer service
- Improve IT systems.
- Increase hiring.

IRS funding for taxpayer services (\$3.8 Billion)

- Pre-filing assistance and education.
- Filing and account services.
- Increase hiring.

OMB states that the increase in spending does NOT replace current appropriations but is IN ADDITION to regular appropriations.

The Congressional Budget Office (CBO) Estimates

- Projected to raise \$203 billion in gross revenue and \$123 billion in net revenue.
- But:
 - CBO - estimates uncertain.
 - CBO – not consider impact/deterrence
 - CBO – not consider unpaid amounts not materialize
 - Range of return on investment \$5 up to \$9 per enforcement dollar – wide uncertain range
 - Assumes consistent training and related enforcement costs
 - Disregards compliance costs to taxpayers (corporate and individual)

TIGTA Memorandum October 13, 2022

- 14 million individual and business returns remaining to be processed
- Calls answered dropped to 14%
- Stolen personal and business identities and scams a highest level
 - Additional resources needed to constantly monitor
 - Last fiscal year 1.5 billion cyber attempts reported by IRS
- Implementing administrative law changes (new and expiring)
- Retirements estimated at 52,000 employees over next 6 years
- Severe draught in human capital – interest by qualified applicants at historical low

https://www.treasury.gov/tigta/management/management_fy2023.pdf

Potential Outcomes:

Increased Enforcement Efforts and Mandatory Reporting

Transfer Pricing

Cross border classification issues

Regulatory compliance

Longer sustained examinations

Partnerships

Example: Uncertain Tax Position Statement Update October 11, 2022

- New draft Schedule UTP and updated instructions.
- Corporate taxpayers required to report incremental amounts associated with each uncertain tax position taken in the 2022 tax year and identify rulings or regulations adverse to their positions.
- Schedule UTP must be filed with Form 1120, “U.S. Corporation Income Tax Return”; Form 1120-F, “U.S. Income Tax Return of a Foreign Corporation”; Form 1120-L, “U.S. Life Insurance Company Income Tax Return”; or Form 1120-PC, “U.S. Property and Casualty Insurance Company Income Tax Return,” by corporations with at least \$10 million in assets that issued audited financial statements and that took one or more UTPs in their returns.

Prior versions of Schedule UTP

- Report for each of their UTPs the primary sections of the Internal Revenue Code associated with the position.
- Whether the position was permanent or temporary (or both).
- The employer identification number of any passthrough entity involved.
- Indicate whether it was a major tax position, and its ranking by size.

New information:

- Identify any revenue ruling, revenue procedure, letter ruling, advice memorandum or notice, or court decision that is contrary to the position taken.
- If the position is contrary to a Treasury regulation, that reg must be identified.

(These two requirements bring the reporting in line with items otherwise reportable on Form 8275, “Disclosure Statement,” and Form 8275-R, “Regulation Disclosure Statement.”)

- Identify the location of the tax position by form or schedule and by line number.
- Identify the incremental amount included on the line related to the tax position taken.

What if I have a PLR, I'm ok right?

Just ask Cross

Cross Refined Coal, LLC v. Commissioner of Internal Revenue

- Facts
- Notice 2010-54
- Cross' PLR

Cross (continued)

- Tax Court Bench Opinion
- Appeal positions
- US Court of Appeals for the DC Circuit Decision
- Implications

The background of the slide is a blurred photograph of a large, multi-story building with a red-tiled roof and several windows. The building is situated on a hillside, and the foreground shows some greenery and a path. The image is out of focus, creating a soft, atmospheric effect.

What other authorities may be in danger?

- District Directives
- APA
- Prefiling Agreements
- Competent Authority issues

International Examination Update

- Sharing of information between agencies
- Powell and treaty requirements
- Challenges in Court

