

Federal Tax Controversies – Technical Issues and Strategies

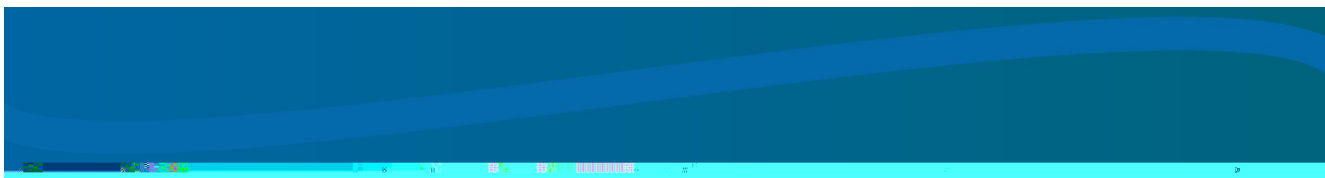
Tax Executive Institute -
San Jose State University
High Tech Tax Institute
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Introductions

Panel Discussion Topics

LB&I Environment
Campaigns
LB&I Exam Process (LEP)
Issue Resolution Programs





Business & International
al TDS & International

LB&I Campaigns – Announced 1/31/17

Initial rollout of 13 campaigns:

Deferred Variable Annuity

Micro Captive Insurance

Basket Transactions

S Corporation Losses

TEFRA Linkage Plan Strategy

Inbound Distributor

OVDP Declines-Withdrawals

Repatriation

Form 1120F Non-Filer

Domestic Production

Related Party Transactions

IRC 48C Energy Credit

Land Developers - Completed Contracts Method (CCM)

LB&I Campaigns – Announced 11/3/17

11 campaigns – 2nd Roll-out:

- Form 1120-F Chapter 3 and Chapter 4 Withholding Campaign**
- Swiss Bank Program Campaign**
- Foreign Earned Income Exclusion Campaign**
- Verification of Form 1042-S Credit Claimed on Form 1040NR Campaign**
- Agricultural Chemicals Security Credit Campaign**
- Deferral of Cancellation of Indebtedness Income Campaign**
- Energy Efficient Commercial Building Property Campaign**
- Corporate Direct (Section 901) Foreign Tax Credit (FTC) Campaign**



LB&I Campaigns

Fundamental part of LB&I's Future State
 Involve LB&I harnessing the combined intellect
 of our team to make intentional decisions about
 compliance risks
 Our decisions impact the most important
 resource we have – our people.



LB&I Campaigns

Campaigns achieve intended compliance outcomes by:

- Focus on selected compliance risks
- Identification of proper resources
- Application of proper combination of treatment streams
- Implementation of feedback loops and
- Adapting to feedback

LB&I Campaigns

Every LB&I employee is encouraged to submit compliance issues for evaluation to determine whether LB&I should expend further resources to develop a particular issue into a campaign.

This effort recognizes the importance of LB&I capturing and relying upon the vast knowledge and expertise of our work force to best use our resources to maximize compliance amongst LB&I's taxpayer population.

LB&I Campaigns

By using LB&I's combined intellect, we can improve our understanding of compliance risk and how we respond to it.

The concept behind campaigns is to improve resource deployment to respond to compliance risk.

The idea is not to audit more returns, but to respond with a variety of treatments to maintain high compliance across the LB&I filing population

Campaigns – Treatment Streams

A campaign treatment stream could include:

- Examinations

- Soft letters

- Outreach

- Industry Issue Resolution program

- Tax form changes, or

- Published guidance

Campaigns – Feedback Loops

We've received hundreds of campaign suggestions and we're in the process of evaluating them—we're taking the approach of looking at all of the ideas, and making assessments.

An important part of the process is an “integrated feedback loop” where we can hear from front-line examiners and practitioners as we evaluate and modify campaigns—or decide to terminate them.

Campaigns – Feedback Loops

Feedback loops – it may take many months to know whether each campaign is functioning as intended or whether adjustments are required to achieve compliance objectives.

It remains possible that while a compliance risk exists there may be no non-compliance. Said another way, we may determine that taxpayers are compliant.

We must remain aware of this possibility and provide feedback immediately if compliance concerns are not realized or if the risk turns out to be a significant concern with widespread non-compliance.

Campaigns – Lessons Learned

Best Practices identified from the Campaign program include:

- Robust Feedback Loops – our feedback process has shown that cultivating robust feedback loops allow us to adapt sooner

- Designing and delivering campaign inventory with pre-identified training and tools

- Identifying a campaign executive lead with strategic responsibility for all aspects of the campaign

Campaigns – Evolving and Expanding

LB&I's processes are evolving; we continue to evaluate campaign ideas and we will continue to assess and adapt our work processes

LB&I will continue to incorporate components of our historical risk assessment process along with lessons learned as we expand our campaign work.

LB&I intends to make campaigns public as long as doing so does not impair tax administration.



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LEP Examination Process

Three stages to the Examination Process:

1. Planning

- Communication
- Issue Team Concept
- Examination Plan

2. Execution

- Issue Development Process
- Written Acknowledgement of Facts

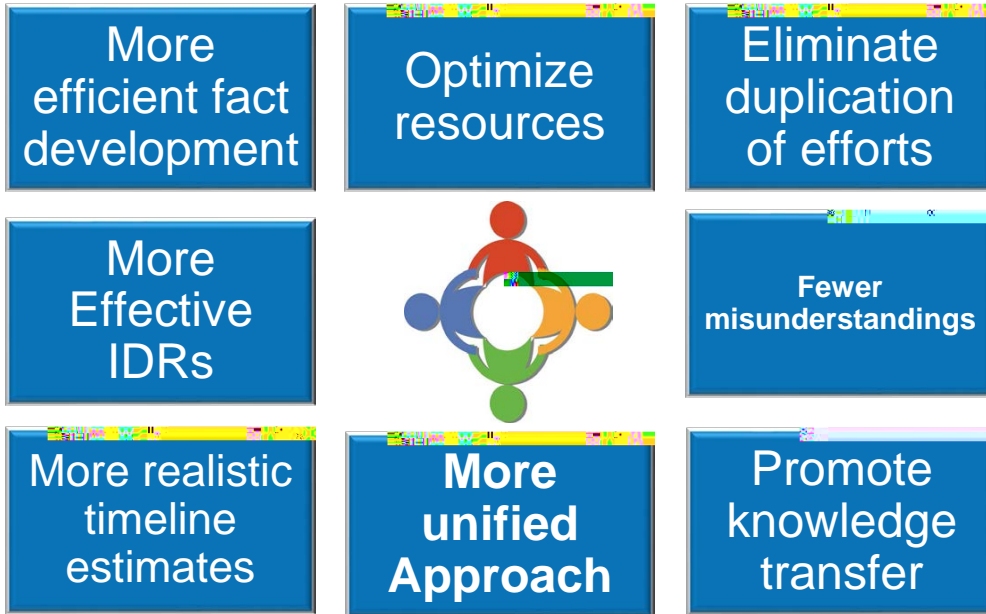
3. Resolution

- Issue Resolution and Exit Strategy



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Issue Driven Process



LEP – Best Practices

Provide Exam Team with an overview of operations, transfer pricing practices or other significant transactions

Hold substantive issue discussions/meetings with key taxpayer personnel as issues arise

Escalation to resolve certain issues arising in exams (How to do this the right way)

LEP – Best Practices

Perform a Taxpayer Team & IRS Team joint evaluation on key areas of transparency, issue development process, availability of personnel, issue resolution, etc. at mid-cycle or on monthly/quarterly basis

Communicate, Collaborate, Cooperate

Industry Issue Resolution Program

The program's goal is to resolve frequently disputed or burdensome issues that affect a significant number of taxpayers.

This goal is accomplished by providing clear guidance that business taxpayers can use, thus reducing the time and expense associated with resolving issues on a case-by-case basis during tax examinations.

Industry Issue Resolution Program

Taxpayers or their representatives, such as industry trade associations, can submit their requests for guidance through the IIR program any time at IIR@IRS.gov.

For each issue selected, a multi-functional team of IRS, Chief Counsel, and Treasury personnel will be assembled. The teams will gather and analyze the relevant facts from the submitter, industry groups and taxpayers for each issue and recommend guidance.



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Industry Issue Resolution Program

Generally, the IRS resolves accepted applications through IRS published guidance, such as a revenue ruling and/or revenue procedure; alternatively, where appropriate, the IRS may use administrative guidance.



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Compliance Assurance Process

2018 Application Period Closed 10/31/2017

No New Entrants

Comprehensive Assessment of CAP
continues

Necessary given today's environment of limited
resources and budget constraints

Ongoing IRS evaluation of existing programs to
ensure they are aligned with LB&I's strategic vision

Compliance Assurance Process

CAP Taxpayer Participation

2017 Current CAP Year

- 174 returning taxpayers (no new TPs accepted in 2017)
- 87 Compliance Maintenance
- 4 Pre-CAP taxpayers (not included in 174 above)

2016 CAP Year

- 181 returning taxpayers (no new TPs accepted in 2016)
- 78 Compliance Maintenance
- 11 Pre-CAP taxpayers (not included in 181 above)

2005: First CAP Year -17 taxpayers



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Compliance Assurance Process

FY 2017 CAP Case Statistics:

151 – Total Closed Cases

96 – No Change Cases

41 –



Pre-Filing Agreement Program

Encourages taxpayers to request consideration of an issue before the tax return is filed and, thus, a beneficial way to reach agreement on an issue in a cooperative environment outside the examination process.

- Reduces the cost and burden associated with the post-filing examination

- Provides a desired level of certainty regarding a transaction, and

- Makes better use of taxpayer and IRS resources

Pre-Filing Agreement Statistics

Fast Track Settlement Program

Joint LB&I Division/Appeals program offers a customer-driven approach to resolving tax disputes at the earliest possible stage in the examination process.

This program is designed to:

Provide an independent Appeals review of the dispute in an environment where all parties to the dispute have a "voice" in the dispute resolution process,

Utilize the mediation skills and delegated settlement authority of Appeals, and

Reduce the length of a taxpayer's overall IRS experience.

Applying for Fast Track Settlement is quick and easy - simply complete a one-page application.



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Fast Track Settlement Statistics



What is Rapid Appeals Process?

Rapid Appeals Process is currently only available to LB&I cases assigned to an Appeals Team Case Leader (ATCL)
 Appeals manages and administers the RAP
 RAP takes place while the case is in Appeals' jurisdiction and is designed to be completed in one conference
 RAP enables taxpayers and the IRS to work together to expedite the resolution of unagreed issues

Objectives of RAP

- Reinforce existing efficiencies
- Improve customer satisfaction
- Introduce proven FTS techniques to resolve issues faster
- Reduce burdens on taxpayers and the Service
- Increase LB&I's involvement in the Appeals process while maintaining Appeals' independence
- Reduce overall cycle time

Distinctions Between RAP and FTS

During RAP, the case is in Appeals' jurisdiction; in FTS the case is in LB&I jurisdiction

If an issue is not eligible for FTS, all other disputed issues in the case are not eligible for FTS

Under RAP, if an issue is not eligible for RAP, the remaining issues may still be eligible for



ATCL CONFERENCES – RAP, CI, ACT

ATCL CASES ONLY – RAP, Conferencing Initiative (CI), Alternative Conferencing Techniques (ACT)

Rapid Appeals Process (RAP)

Mandatory ATCLs consider and offer it, both LB&I and TP need to agree

Otherwise:

ATCL conferencing initiative (CI) – mandatory for pilot

Alternative conferencing technique (ACT) —
discretionary



CI AND ACT AFTER RAP REJECTION

What if the Taxpayer and LB&I do not agree to use RAP – then what?

The ATCL can employ CI and/or ACT

CI is a pilot and is mandatory for ATCLs in the pilot and ACT is optional for the other ATCLs.

Disaster Relief – Revenue Procedure

Rev Proc. 2007-56

Under section 7508A and the underlying regulations, the IRS Commissioner has the authority to allow certain taxpayers in federally-declared disaster areas to delay certain requirements. Revenue Procedure lays out acts by code section and category and describes the act postponed in disaster or other situation.

Other Resources

Rev Proc. 2006-32 – Cost Index Tables

IRS.gov has a dedicated section to disaster relief, including laying out past disaster guidance [o/04 -6\(bu.332-i0056006 T](#)

General disaster guidance for individuals and businesses can also be located on IRS.gov and the information is updated regularly

<https://www.irs.gov/businesses/small-businesses-self-employed/faqs-for-disaster-victims>
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Happy to Entertain Your Questions

