

# 35th Annual TEI-SJSU High Tech Tax Institute

## Federal Tax Controversy

November 5, 2019

## Presenters

Wendy Abkin, Partner - *Morgan Lewis & Bockius LLP*

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Emily Lam, Partner - *Skadden, Arps LLP*

Don Murray, Director, Field Operations West, CBA,  
LB&I - *IRS*

Eric Slack, Director, Field Operations-West - *IRS*

Gloria Sullivan, Director - Western Compliance  
Practice Area - *IRS*

# Topics for Today

Current workforce -- staffing and hiring

- Context for priorities and initiatives

LB&I Portfolio of Compliance Programs

Implementation of Major Priorities

Key Compliance Issues – LB&I and Western Compliance

Tax certainty and Risk assessment

Focus for FY 2020

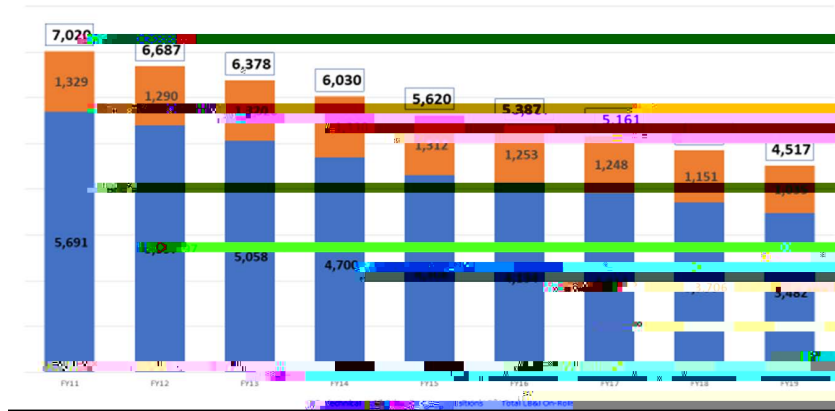
Tax Cuts and Jobs Act Compliance Planning for Cross Border Activities

LB&I's Appeals Activities

## Current workforce -- staffing and hiring

LB&I STAFFING FOR OVER-YEARS

BEGINNING OF YEAR ON-ROLLS



# LB&I Hiring – FY19

Add to Rolls 387

## All Job Classifications

- Revenue Agents – including CAS, International, Transfer Pricing, FPs
- Engineers
- Economists
- Appraisers
- Tax Law Specialists

## Western Practice Area – Staffing & Hiring

Sept 2019 Revenue Agents on Staff - 559

2019 Hiring to date:

- Revenue Agents Added to Rolls 62

Including:

- Bay Area 11
- LA Area 9
- Denver 9
- Houston 8
- Dallas 7
- Seattle 6



# LB&I Portfolio or



### Data Sources

- Internal
- External

### Analytical Tools

- Statistics
- 

## Classification & Risk Assessment Process

1. Returns identified for potential exam
2. Classification process (except LCC)
  - Centralized, Cadres
  - Manual generally
- 3.

# Large Corporate Compliance (LCC) Program Successor to CIC

## Compliance Programs – CAP & CAP Recalibration

August 2016 - Evaluate the CAP program.

August 2018 - 2019 CAP year changes announced.

June 2019 - 2020 CAP interest solicited via Statements of Interest.

- 18 Statements of Interest Received
- Tax Control Framework Questionnaire
- Review and establish baseline TCF requirements for a CAP taxpayer.

September 2019 – Application Period open through October 2019

# CAP & CAP Recalibration

Centralized risk assessment

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## Campaigns – 2016 ---> present

Transition to issue focused campaigns  
Capitalize on collective experience  
Holistic response  
Campaigns may cover any type of LB&I return.  
Some are cross-BOD.  
Over 1,000 campaign suggestions received.  
Over 50 LB&I Compliance Campaigns announced.  
Practice units, Lessons learned  
On-going Announcements  
Increasing percentage of overall Portfolio.  
Current focus on TCJA

The Global High Wealth group was organized in 2009

Enterprise approach.

Increasing GHW coverage

Increasing Large Partnership and S-corp coverage

Form Improvement efforts

BBA Implementation – procedural guidance now in place



# Key Compliance Issues

Syndicated conservation easements

Micro-captive insurance

- Exams, Promoter Investigations
- Litigation
- New Settlement Initiative

Virtual currency

Fraud referrals - Commissioner Rettig announced a new Fraud Referral initiative.

## Western Compliance – Key compliance issues

Research Credit

- IRS and taxpayer resources
- Opportunities to streamline audits – Big Picture
  - Industry based

# Western Compliance – Key Compliance Issues

## Section 199

- Claims Campaign Ongoing
- Areas of Significant Compliance Risk

## Transfer Pricing

- Transfer Pricing Examination Process (TPEP)  
Publication 5300 released in 2019.
  - TTPO working with TEI on improvements
- Guide to best practices and processes to assist with planning, execution and resolution of Transfer Pricing examinations.
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## Tax certainty and risk assessment

Research Credit – Centralized risk assessment in CAP

Transfer Pricing – MITT used in CAP and helped improve our selection/deselection of issues.

Merger & Acquisition Transactions – Significant deselection of issues

Centralized Risk Assessment Cadres

# Focus for FY2020

Hiring

TCJA compliance

Improved use of data analytics to  
improve case selection

Training: New Hires, TCJA Guidance

Communication/Engagement

Improved internal operations including  
technology



Don Murray

November 5, 2019

# Implementation Updates

## Implementation Updates, continued

Implementation Risks

Compliance Issues

# Training

International Overview Training

Face to Face Training

CBA Revenue Agent Deep Dive  
Training

New Hire Training

Campaign development materials relate to examination selection standards; examination selection standards and the underlying data for determining such standards are protected under the law from disclosure. Access to these materials

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# Compliance Planning

Overview

International Matrix

E&P Resources Team

Support of CAP Teams



Campaign development materials relate to examination selection standards; examination selection standards and the underlying data for determining such standards are protected under the law from disclosure. Access to these materials should be restricted, and in all cases these materials should not be shared beyond anyone that has a need to know.

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# Independent Office of Appeals

## Overview



## Appeals' role in IRS

### **Dispute resolution**

The IRS Independent Office of Appeals is an administrative appeal function available to taxpayers. Appeals can review a tax matter after Compliance has made its decision (non-docketed case) or after a taxpayer has petitioned the Tax Court (docketed case)

### **Mission**

To resolve tax controversies, without litigation, on a basis which is fair and impartial to both the Government and the taxpayer in a manner that will enhance voluntary compliance and public confidence in the integrity and efficiency of the Service

### **Independence**

The independence of the appeals function is mandated by statute and includes the prohibition on ex parte communications between Appeals and other IRS employees to avoid the appearance of improper influence

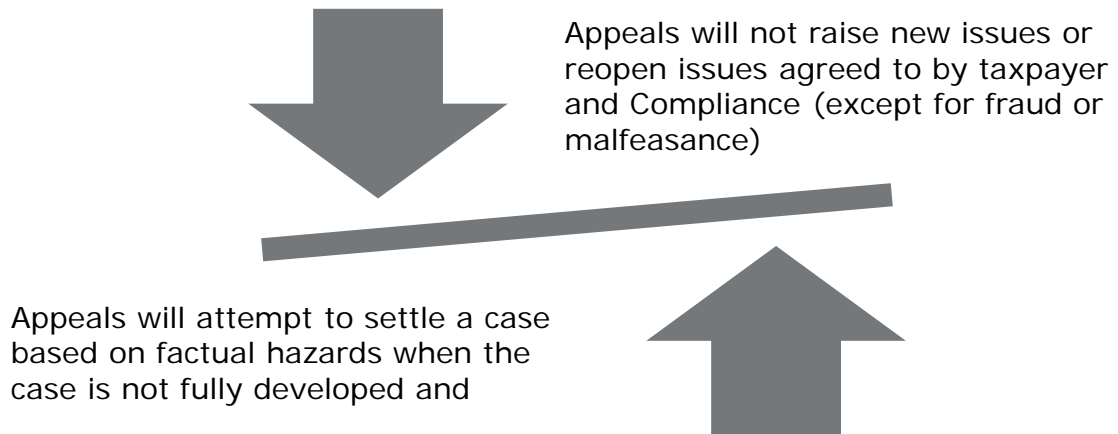
## Receipts by type

<b>Workstream</b>	<b>FY 2017</b>	<b>FY 2018</b>	<b>JUL FY 2019</b>
Collection Due Process (CDP)	37,667	35,168	29,505
Offers in Compromise (OIC)	9,564	8,864	5,676
Innocent Spouse	3,407	2,657	1,378
Penalty Appeals	10,652	8,190	4,726
Coordinated Industry Cases	88	65	35
Industry Cases	955	885	657
Examination	30,657	27,290	20,203
Other	10,584	9,311	6,927
<b>Total</b>	<b>103,574</b>	<b>92,430</b>	<b>69,057</b>

# Appeals settlement authority

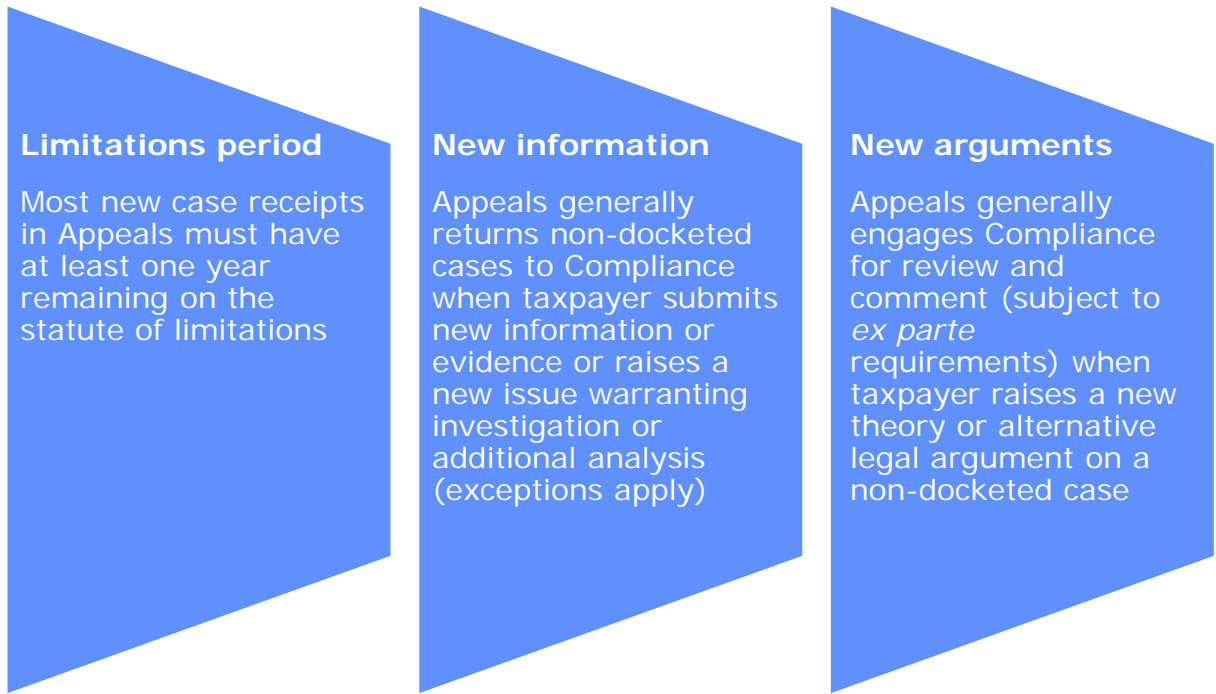
- Appeals is expressly authorized to enter into settlements that take into consideration the provisions of Section 4.3(g) and 4.3(o)-1(n) of the Internal Revenue Manual (IRM) 4.4.1-10.1

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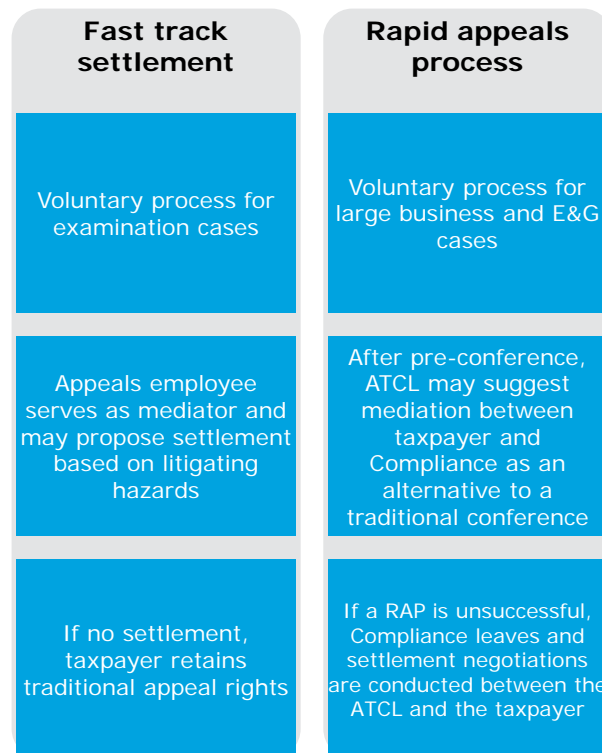




# Independence policies



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## Taxpayer first Act of 2019

### Appeals-related provisions:

- Changed name to IRS **Independent** Office of Appeals
- Codified mission statement
- Codified right to an appeal of most IRS determinations
- Codified Appeals' right to legal advice from Chief Counsel
- Guaranteed access to certain contents of administrative case file at least 10 days prior to conference for specified taxpayers
- Required reporting of cases designated for litigation by Chief Counsel

## ATCL conferencing initiative—Pilot

- Appeals developed a pilot to test Compliance attendance at conferences in large cases
- Participating Appeals Team Case Leaders (ATCLs) invite Compliance to participate in all of their conferences
  - Approximately 1/3rd of ATCLs are participating in pilot
  - Taxpayers cannot opt out
  - Compliance does not attend settlement negotiations
  - Pilot is being extended for an additional year
- External participants will be surveyed by an outside contractor
- Appeals will post an outline of practices used in the pilot to [www.irs.gov](http://www.irs.gov)



Questions?