

*The American Society of Tax Problem Solvers*

## **“Taxpayer Interviews”**

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## **“Critical Practitioner Considerations”**

**AUDIO RECORDINGS**

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## **“TAXPAYER INTERVIEWS-PROPER PROCEDURE”**

Prior to commencing with the representation of a tax case, a tax practitioner should know as much as possible about three major issues being:

- ☞ The “Taxpayer”
- ☞ The case “Issues”, and
- ☞ The “Law”

Understanding, knowing and properly applying the law can be achieved by performing proper research and review of various legal and regulatory statutes, publications & other documents. However, knowledge of the first two items (the taxpayer & the case issues) can only be achieved by performing a proper “interview” of the taxpayer. The practitioner should perform a detailed and probing interview to thoroughly understand “the taxpayer” and to efficiently ascertain the “facts & circumstances” relative to the tax case issue. Additionally, practitioners should be knowledgeable with respect to the Internal Revenue Service’s (IRS) authority regarding “taxpayer interviews”.

This presentation is designed to review and explain the appropriate procedures regarding “taxpayer interviews” from both the representative’s perspective as well the IRS’s perspective.

## **“TAXPAYER INTERVIEWS-PROPER PROCEDURE”**

Well established (and adequately resourced) tax, accounting & legal firms generally rely upon their more experienced staff or practitioners to conduct in-depth client interviews and possibly any internal quality review issues. However, the reality is that “lone wolf” and/or understaffed practitioner firms do not have this luxury. All client and taxpayer interviews may be performed by the one practitioner of the firm or even their inexperienced staff.

With respect to tax resolution, all taxpayer interviews are critical to the “proper” resolution of the tax matter presented. A thorough and proper interview of a taxpayer provides the practitioner with “guidance” as to how to approach or not to approach a case or a particular tax matter. For example consider the following:

- ☐ The interview should be comprehensive & thorough (generally not a “quickie”)
- ☐ However, although through you should establish “interview” limitations or “borders” with respect to certain questions (e.g.-“Was it your intent to deceive the IRS?”). That’s a potential “border question” and should be possibly deferred to the taxpayer’s Criminal Tax Attorney.
- ☐ Consider your responsibility under the law with respect to “privilege”. Most, if not all, tax resolution taxpayer/client interviews should end with the issue of privilege (discussed later in the text).
- ☐ Prioritize your questions & thoughts based upon the order of importance
- ☐ Categorize your potential questions based upon relevance
- ☐ Consider asking “open-ended” questions
- ☐ Prior to invoking the interview the practitioner should consider any cultural and language barriers. “¿Tu habla español? If not, don’t go there.
- ☐ Discuss the taxpayer’s expectations regarding the engagement.

Although we intend to review & discuss, actual interview techniques, it is more important that you understand the law as well as any regulatory and administrative procedures mandated or utilized by the Internal Revenue Service. Therefore, let’s begin with the law & legal procedures regarding this critical tax issue. Follow me (and no, I’m not referring to Twitter!).

# THE LAW

## PROCEDURES INVOLVING TAXPAYER INTERVIEWS

### RECORDING OF INTERVIEWS:<sup>1</sup>

#### RECORDING BY TAXPAYER:

Any officer or employee of the Internal Revenue Service in connection with any in-person interview with any taxpayer relating to the determination or collection of any tax shall, upon advance request of such taxpayer, allow the taxpayer to make an audio recording of such interview at the taxpayer's own expense and with the taxpayer's own equipment.

#### RECORDING BY IRS OFFICER OR EMPLOYEE:

An officer or employee of the Internal Revenue Service may record any interview described in paragraph (1) if such officer or employee-

- ☐ informs the taxpayer of such recording prior to the interview, and
- ☐ upon request of the taxpayer, provides the taxpayer with a transcript or copy of such recording but only if the taxpayer provides reimbursement for the cost of the transcription and reproduction of such transcript or copy.

## SAFEGUARDS

#### EXPLANATIONS OF PROCESSES:

An officer or employee of the Internal Revenue Service shall **before or at an initial interview** provide to the taxpayer-

- ☐ in the case of an in-person interview with the taxpayer relating to the determination of any tax, an explanation of the audit process and the taxpayer's rights under such process, or
- ☐ in the case of an in-person interview with the taxpayer relating to the collection of any tax, an explanation of the collection process and the taxpayer's rights under such process.

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<sup>1</sup> IRC §7521, "Procedures Involving Taxpayer Interviews"

#### RIGHT OF CONSULTATION:<sup>2</sup>

If the taxpayer clearly states to an officer or employee of the Internal Revenue Service **at any time during any interview** (other than an interview initiated by an administrative summons issued under subchapter A of chapter 78) that the taxpayer wishes to consult with an attorney, certified public accountant, enrolled agent, enrolled actuary, or any other person permitted to represent the taxpayer before the Internal Revenue Service, such officer or employee shall suspend such interview regardless of whether the taxpayer may have answered one or more questions.

#### REPRESENTATIVES HOLDING POWER OF ATTORNEY:<sup>3</sup>

Any attorney, certified public accountant, enrolled agent, enrolled actuary, or any other person permitted to represent the taxpayer before the Internal Revenue Service who is not disbarred or suspended from practice before the Internal Revenue Service and who has a written power of attorney executed by the taxpayer **may be authorized by such taxpayer to represent the taxpayer in any interview** described in subsection (a). An officer or employee of the Internal Revenue Service may not require a taxpayer to accompany the representative in the absence of an administrative summons issued to the taxpayer under subchapter A of chapter 78. Such an officer or employee, with the consent of the immediate supervisor of such officer or employee, may notify the taxpayer directly that such officer or employee believes such representative is responsible for unreasonable delay or hindrance of an Internal Revenue Service examination or investigation of the taxpayer.

#### SECTION NOT TO APPLY TO CERTAIN INVESTIGATIONS:<sup>4</sup>

This section shall not apply to criminal investigations or investigations relating to the integrity of any officer or employee of the Internal Revenue Service.

#### **Practitioner Discussion Point:**

The above legal cite represents the “law” in a nutshell as it pertains to “taxpayer interviews”. With the exception of the issue regarding the “**Burden of Proof**”<sup>5</sup>, very few legal cites are provided as guidance with respect to this issue.

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<sup>2</sup> IRC §7521(b)(2)

<sup>3</sup> IRC §7521(c)

<sup>4</sup> IRC §7521(d)

<sup>5</sup> IRC §7491(a)(2)(B)

## *IRS Policy & Procedures*

### **Taxpayer Interviews:**<sup>6</sup>

1. Give taxpayers who reach an impasse during an interview an opportunity to meet with the supervisory official. Advise taxpayers of their appeal rights even if they do not request a higher level of review.

2. The taxpayer may be represented during a taxpayer interview by any of the following who is not disbarred or suspended from practice before the Service, and has a properly executed power of attorney from the taxpayer:

- ☐ • Attorney
- ☐ • Certified public accountant
- ☐ • Enrolled agent
- ☐ • Full-time employee of the taxpayer
- ☐ • Immediate family member
- ☐ • Or other person permitted to represent a taxpayer before the Service.

**Note:** If a taxpayer does not have a representative, they may be eligible for assistance from a Low Income Taxpayer Clinic (LITC). For LITC eligibility guidelines see IRS Pub 4134, Low Income Taxpayer Clinic List.

3. Suspend an interview if the taxpayer clearly indicates that he/she wishes to consult with a representative.

4. Serve a collection summons if you believe the taxpayer abuses this process through repeated delays or suspensions of interviews. Document the reasons for non-issuance in such circumstances.

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<sup>6</sup> Internal Revenue Manual (IRM) §5.1.11.2.2

**Note:** Absent a summons, the taxpayer cannot be required to accompany the representative to the interview.

5. Notify the taxpayer if you believe the representative is responsible for unreasonable delay or hindrance. Request that the taxpayer appear for an interview and inform the taxpayer that a collection summons requiring the taxpayer's appearance at an interview may be issued. Refer to IRM 5.1.23.5, *By-passing a Taxpayer's Representative*, for more information and by-pass procedures.

6. When appropriate, continue with IRC 6020(b) procedures or referrals to Examination or Criminal Investigation while addressing delays by the taxpayer's representative.



**IRS NOTICES, CUMULATIVE BULLETIN NOTICE 89-51, INTERNAL REVENUE SERVICE (Apr. 14, 1989)**

*Taxpayer Interviews-Procedures for Audio Recording:*<sup>7</sup>

This notice provides guidance with respect to the definition of a "taxpayer interview" and procedures for audio recording by taxpayers of taxpayer interviews.

This notice provides guidance with respect to the **definition of a "taxpayer interview"** and procedures for audio recording by taxpayers of *taxpayer interviews*, as authorized by section 7520 of the Internal Revenue Code. Section 7520 was enacted by the Technical and Miscellaneous Revenue Act of 1988 (TAMRA), Public Law 100-647, as part of the Omnibus Taxpayer Bill of Rights, and is effective for taxpayer interviews conducted after February 9, 1989. Pursuant to section 7520, regulations are to be issued in 1989 to provide guidance with respect to "time and place of examination" as provided in section 7605(a).

Section 7520(a) of the Code provides that any officer or employee of the Internal Revenue Service, in connection with *any in-person interview* with any taxpayer relating to the determination or collection of any tax, shall, upon the advance request of such taxpayer, allow the taxpayer to make an audio recording of such interview at the taxpayer's own expense and with the taxpayer's own equipment. This section also provides for recording by Service personnel if the taxpayer is notified prior to the interview. The Service must provide the taxpayer with a transcript or copy of such recording upon request, but only if the taxpayer provides reimbursement for the cost of the transcript and reproduction of such transcript or copy.

In the case of *an in-person interview relating to the determination or collection of any tax*, section 7520(b)(1) of the Code provides that an employee of the Service must provide the taxpayer with an explanation of the audit process or the collection process, and the taxpayer's rights there-under, prior to or at the initial interview.

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<sup>7</sup> Cumulative Bulletin Notice 89-51

Section 7520(b)(2) of the Code provides that if the taxpayer clearly states to an officer or employee of the Service at any time **during any interview** (*other than an interview initiated by an administrative summons*) that he or she wishes to consult with an attorney, certified public accountant, enrolled agent, enrolled actuary, or any other person permitted to represent the taxpayer before the Service, then such officer or employee must suspend the interview regardless of whether the taxpayer has answered one or more questions up to that point.

For purposes of section 7520 of the Code, the term "taxpayer interview" means a meeting between an officer or employee of the Examination function, the Employee Plans and Exempt Organization function, or the Collection function of the Service, and a taxpayer or authorized representative, as defined in section 7520(b)(2), when the determination or the collection of any tax is at issue.

**Procedures for Audio Recordings of Taxpayer Interviews During Examination and Collection Proceedings:**

(1) Requests by taxpayers or their authorized representatives to make audio recordings of examination or collection proceedings will be approved by the Service official or employee **conducting the interview** under the following conditions:

- (a) the taxpayer or authorized representative supplies the recording equipment;
- (b) the Service may produce its own recording of the proceedings;
- (c) the recording takes place in a suitable location, ordinarily in an Internal Revenue Service office where equipment is available to produce the Service's recording; and
- (d) all participants in the proceeding other than Service personnel must consent to the making of the audio recording and all participants must identify themselves and their roles in the proceeding.

(2) Requests by taxpayers or authorized representatives to make audio recordings of examination proceedings or collection proceedings must be addressed to the **officer or employee of the Service who is conducting the interview** and must be received by the Service no later than 10 calendar days prior to the interview that is to be recorded. If 10 calendar days' advance notice of intent to record is not given, the Service may, in its discretion, conduct the interview as scheduled or set a new date.

(3) When the Service intends to record a **taxpayer interview that is part of an examination or collection proceeding**, it will so inform the taxpayer or authorized representative no later than 10

calendar days prior to the interview that is to be recorded. This requirement does not apply where the taxpayer has already submitted a request to make a recording and the Service is merely seeking to make its own recording.

(4) Requests by taxpayers or their authorized representatives for a copy or transcript of an audio recording produced by the Service must be addressed to the official or representative conducting the interview and must be received by the Service no later than 30 calendar days after the date of the recording. However, the Service will attempt to accommodate requests received at a later date. All requests must be accompanied by payment of the costs of duplication or transcription.

(5) At the outset of the recording, the official or employee conducting an examination or meeting that is to be recorded will identify himself or herself, the date, the time, the place, and the purpose of the proceeding.

(6) When written records are presented or discussed during the proceeding, they must be described in sufficient detail to make the audio recording a meaningful record when matched with the other documentation contained in the case file.

(7) At the conclusion of the proceeding, the Service official or employee will state that the proceeding has been completed and that the recording is ended.

LEGAL EFFECT: This document serves as an "administrative pronouncement" as that term is described in section 1.6661-3(b)(2)<sup>8</sup> of the Income Tax Regulations and may be relied upon to the same extent as a revenue ruling or revenue procedure.

**Drafting Information:**

The principal author of this notice is Marcia F. Rachy of the Office of Assistant Chief Counsel (Income Tax and Accounting). For further information regarding this notice, contact Marcia F. Rachy on (202) 566-3886 (not a toll-free call).

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<sup>8</sup> This Treas. Reg. was superseded by Treas. Reg. §1.6662-4, "Substantial Understatement of Income Tax"

**Other IRS Documents, IRS Offers in Compromise Handbook, Internal Revenue Service,**  
**(Mar. 14, 2000)**

**Indication of Fraud:**

(1) When reviewing the taxpayer's financial statement the employee should always be watchful of the fraud warning signs related to offers in compromise. The following are the offer in compromise fraud warning signs most readily identifiable during:

<b><u>Taxpayer Interviews:</u></b>
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- a. Failing to keep proper books and records in a business or profession.
- b. No records, poorly kept records, or attempts to falsify or alter records.
- c. Destroying books and records without plausible explanation or refusal to make certain records available.
- d. Extent of taxpayer's control of sales and receipts and his/her apparent unwillingness to delegate this function to his/her employees.
- e. Engaging in illegal activities.
- f. Personal living standard and asset acquisition inconsistent with reported income.
- g. Indications that valuable assets belonging to the taxpayer are being acquired and held in the name of others.
- h. Self-serving statements with no documentary proof.
- i. Repeated procrastination on the part of the taxpayer in making and keeping appointments with you.
- j. Hasty agreement to adjustments and undue concern about immediate closing of the case may indicate that more thorough examination is needed.

**Verification of Financial Statement:**

- a. Uncooperative attitude displayed by:
  - Not providing requested information
  - Refusal to make certain records available
  - Not furnishing adequate explanations for discrepancies or questionable items.
- b. Trying to conceal a pertinent fact or record.
- c. Failing to deposit all receipts to business account.

- d. Use of nominees or false names.
- e. Unusual depletion of assets shortly before filing the offer.
- f. Inflated salaries, payment of bonuses or cash withdrawals by officers, directors, shareholders or other insiders.
- g. Transfers of property to insiders, shareholders or relatives shortly before filing the offer.
- h. Payoff of loans to directors, officers, shareholders, relatives or other insiders shortly before filing the offer.
- i. Complicated corporate structures and relationships.
- j. Undervaluing of assets.
- k. Overstatement of liabilities.

**The fraud indicators below can fall into any of the above categories:**

- a. Making false, misleading, and inconsistent statements.
- b. Using currency instead of banks accounts or making large expenditures in currency.
- c. Concealment of bank accounts and other property.

(2) If indications of fraud are identified prepare a prompt referral to Criminal Investigation and suspend the investigation until the following:

If Criminal Investigation ...  
rejects the referral

Then... investigation of the offer may continue

accepts the referral

no contact will be made with the taxpayer regarding the status of the offer until Criminal Investigation informs the taxpayer of the criminal investigation and/or authorizes Collection to contact the taxpayer.

(3) Once the taxpayer has been notified by Criminal Investigation of the criminal investigation and Collection has been authorized to contact the taxpayer, Collection will advise the taxpayer of the following:

- The offer could be rejected because other investigations are pending that may affect the liability sought to be compromised or the grounds on which it was submitted.
- Action on the offer will be suspended pending the outcome of the criminal investigation
- Option to withdraw the offer.



DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, DC 20224  
January 7, 2002  
Office of Chief Counsel

Number: **200206055**  
Release Date: 2/8/2002  
PREF-149037-01/CC:PA:APJP:3  
UILC: 7521.00-00;7602.00-00;7602.04-01

INTERNAL REVENUE SERVICE NATIONAL OFFICE FIELD SERVICE ADVICE  
MEMORANDUM FOR AREA 2 COUNSEL PHILADELPHIA, PA  
ATTN: JEFFREY VENZIE

FROM: Peter K. Reilly \_\_\_\_\_  
Special Counsel (Tax Practice & Procedure) Administrative Provisions & Judicial Practice

SUBJECT: Proposed Dover Project  
PREF-149037-01

This Chief Counsel Advice responds to your memorandum dated October 16, 2001. In accordance with I.R.C. § 6110(k)(3), this Chief Counsel Advice should not be cited as precedent.

ISSUES

1. Would the Internal Revenue Service (Service) be required to provide the taxpayer with a copy of Publication 1 before or at the initial interview with the taxpayer pursuant to the provisions of I.R.C. § 7521(b) with respect to cases developed under the proposed project?
2. If a taxpayer is a non-filer for a particular year would the income information for that tax year shown on the Service's Information Reporting Program (IRP) data base constitute a reasonable indication that there is a likelihood of unreported income thereby permitting the use of Financial Status Audit Techniques under section 7602(e)?
3. Would the third-party contact procedures of section 7602(c) apply to the revenue officer and the revenue agent with respect to cases developed under the proposed project?
4. Would the revenue officer be required to inform the taxpayer that a revenue agent is involved in a case developed under the proposed project?

CONCLUSIONS

1. Cases developed under the proposed project involve the computation of the non-filer taxpayer's civil tax liability which results in the determination of that taxpayer's tax. Thus, the provisions of section 7521 (b)(1) should be followed and Publication 1 should be provided to the taxpayer since Publication 1 satisfies the notice requirements of section 7521(b)(1).

2. The provisions of section 7602(e) do not apply to direct audit methods. The provisions of section 7602(e) do apply to indirect methods such the bank deposits method, the cash transaction method, the net worth method, the percentage of mark-up method, and the unit and volume method. IRP information indicating that the taxpayer has income in excess of \$100,000 for the tax year coupled with the taxpayer's failure to file a return to report this substantial amount of unreported income provides the Service with a reasonable indication that there is a likelihood of unreported income so that the Service can resort to the use of financial status or economic reality examination techniques.

3. Contacts made to assist in computing the non-filer taxpayer's civil tax liability are made with respect to the determination of the tax liability. Thus, the Service should comply with the provisions of section 7602(c) with respect to such contacts.

4. There is no provision under the Internal Revenue Code which would require the revenue officer to inform the taxpayer that the revenue agent is involved in a case developed under the proposed project.

**FACTS:**

Your request for advice pertains to a proposed project which would involve revenue officers working in conjunction with revenue agents to develop non-filer cases where there is unreported income in excess of \$100,000 for possible referral to the Criminal Investigation Division (CID). We understand the project is referred to as the Dover Project because it will be based on IRP information received in Dover, Delaware.

These cases are selected by a computer-generated matching program based on IRP information and the taxpayer's failure to file a return for the year at issue. If for a particular year, IRP information derived from W-2's and/or 1099's reflects income and the computer locates no corresponding return for that particular year, the case is created and assigned to Collection. Under the proposed project, cases reflecting IRP income in excess of \$100,000 will be selected for development and possible referral to CID if firm indications of fraud are detected.

Once selected, the revenue officer assigned to the case would first send a letter to the taxpayer advising that no return was located for that particular year and requesting an explanation from the taxpayer. In light of the potential fraud consideration, a return is not solicited by the revenue officer. The revenue officer will also begin to gather factual information with respect to the taxpayer's assets and income sources. The revenue officer will work in conjunction with a revenue agent.

**“Corporate Audit/Examination Questionnaire”**

CLIENT: \_\_\_\_\_

**Tax Year Ended: December 31, 2020**

Please answer the questions noted below to the best of your ability and as accurately as possible. If a particular question does not apply to you, and/or your situation, please provide an explanation for the basis of your reason. Additionally, please note any answer you believe to be privileged. All questions are with respect to the tax year or years as noted above.

**Audit/Examination Questions:**

1. What is your legal name? \_\_\_\_\_
2. What is your fiscal year end? \_\_\_\_\_
3. What is your legal address? \_\_\_\_\_
4. Amended returns filed? \_\_\_\_\_
5. Have you received any additional IRS notices? \_\_\_\_\_
6. Have you been audited before? \_\_\_\_\_
7. How long has your tax preparer/accountant been with your firm? \_\_\_\_\_
8. Who performs the data entry for XXX, Inc.? \_\_\_\_\_
9. Did you earn or receive any foreign income? \_\_\_\_\_
10. Were any “dividends” paid for the tax year? \_\_\_\_\_
11. Provide tax returns of the major shareholder’s personal returns. \_\_\_\_\_
12. Provide tax returns of any related company/entity returns. \_\_\_\_\_
13. Have you filed all employment tax returns? \_\_\_\_\_
14. Do you have copies of Forms 1099/1096 for the TY? \_\_\_\_\_
15. Do you have copies of Forms W-2/W-3 for the TY? \_\_\_\_\_
16. Did you/or were you required to file Form 5500? \_\_\_\_\_
17. What % of shares are owned & by whom? \_\_\_\_\_
18. Were there any “shareholder loans”? \_\_\_\_\_
19. Are the major shareholder returns under examination? \_\_\_\_\_
20. Have the duties of the President changed? \_\_\_\_\_
21. Did the major shareholders receive bonuses? \_\_\_\_\_
22. Were any family members employed by XXX, Inc.? \_\_\_\_\_
23. Were there any property distributions? \_\_\_\_\_
24. Did the Corp/major shareholders control any other entities? \_\_\_\_\_
25. Are the major shareholder(s) directors of any other entities? \_\_\_\_\_
26. Did the company pay for any personal autos/vehicles? \_\_\_\_\_
27. Does XXX, Inc. provide health insurance or a medical reimbursement plan? \_\_\_\_\_
28. Does XXX, Inc. provide group life/term ins.? \_\_\_\_\_ Who is the beneficiary? \_\_\_\_\_
29. Does XXX, Inc. provide “fringe benefits”? \_\_\_\_\_
30. Does XXX, Inc. accrue bonuses? \_\_\_\_\_
31. Are there “Shareholder Loans”? \_\_\_\_\_



32. Where & when was XXX, Inc. incorporated? \_\_\_\_\_
33. Provide a brief description of the President's prior experience? \_\_\_\_\_
34. Does XXX, Inc. have a company attorney? \_\_\_\_\_
35. Does XXX, Inc. have any subsidiary/parent company relationships? \_\_\_\_\_
36. Were there any lawsuits? \_\_\_\_\_
37. Were there any extra-ordinary expenses? \_\_\_\_\_
38. Was there a change in "accounting method? \_\_\_\_\_
39. When did you move to your current location? \_\_\_\_\_
40. What is or what was your rent payment? Is \_\_\_\_\_ Was \_\_\_\_\_
41. What are the professional/technical backgrounds of your assistants? \_\_\_\_\_
42. Who issues the interim financial statements? \_\_\_\_\_
43. Do you have a depreciation schedule? \_\_\_\_\_
44. Has a Certified Audit (financial) ever been conducted for XXX, Inc.? \_\_\_\_\_
45. How does XXX, Inc. handle "year-end" cut-off transactions? \_\_\_\_\_
46. Do you maintain petty cash? \_\_\_\_\_ If so, how much? \_\_\_\_\_
47. How many bank accounts does XXX, Inc. utilize? \_\_\_\_\_ What type? \_\_\_\_\_
48. Who has bank signature authority? \_\_\_\_\_ Now? \_\_\_\_\_ Then? \_\_\_\_\_
49. Who currently reconciles the bank account(s)? \_\_\_\_\_ Then? \_\_\_\_\_
50. What % of XXX, Inc.'s income is generated by credit card sales? \_\_\_\_\_
51. Do you have a "Pay-Pal" account? \_\_\_\_\_ Please provide statements. \_\_\_\_\_
52. Did any "related party" transactions during the tax year? \_\_\_\_\_
53. Please list all bank accounts you maintained during the tax year.  
\_\_\_\_\_
54. Did you maintain a corporate safe deposit box? \_\_\_\_\_ If so, what were/are  
the contents? \_\_\_\_\_
55. When did you start the business? \_\_\_\_\_
56. Do you finance? \_\_\_\_\_
57. How many employees? \_\_\_\_\_
58. Do you accept cash/cash payments? \_\_\_\_\_
59. What type accounting system do you use? \_\_\_\_\_
60. Are corporate funds commingled (business & personal)? \_\_\_\_\_
61. Where are the accounting records maintained? \_\_\_\_\_
62. Do you maintain separate bank accounts for the different corporate functions?  
\_\_\_\_\_

**Privilege Issues:**

- A. Is there anything we discussed today and/or regarding any of the interview queries noted above that you consider as privileged? \_\_\_\_\_
- B. If so, please explain: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- C. Is there anything that we did not discuss today and/or any issue you deem relevant regarding the aspects of this tax matter that you consider privileged? \_\_\_\_\_
- D. If so, please explain: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**"Individual Audit/Examination Questionnaire"**

CLIENT: \_\_\_\_\_

**Tax Year Ended: December 31, 2020**

Noted below are additional questions posed by the IRS Auditor regarding your tax case. Please provide the answer to these additional questions and return your response via email or facsimile as promptly as possible. All questions are with respect to the tax year noted above.

**Additional Audit Questions (Personal in nature):**

1. Were your business bank statements provided to the tax preparer regarding preparation of your 2014 tax return? \_\_\_\_\_
2. Describe any other records that were provided to prepare your 2014 tax return?
  - ☐ Invoices: \_\_\_\_\_
  - ☐ Excel Worksheets: \_\_\_\_\_
  - ☐ Other: \_\_\_\_\_
3. What did you pay for the preparation of your 2014 tax return? \_\_\_\_\_
4. Were other services provided to you by Paulson & Paulson, such as?
  - a. Accounting or Bookkeeping: \_\_\_\_\_
  - b. Financial or Investment Services: \_\_\_\_\_
5. Has either taxpayer been previously married to anyone else? \_\_\_\_\_
6. Have you ever filed Bankruptcy? \_\_\_\_\_
7. How long have you lived at your current address? \_\_\_\_\_
8. How much are your monthly mortgage payments? \_\_\_\_\_
9. To whom/what company, are your mortgage payments paid ? \_\_\_\_\_
10. Do you own any other real estate? \_\_\_\_\_
11. Did you have any "major" home repairs in 2014? \_\_\_\_\_
12. Approximately how much were your 2014 monthly utility bills? \_\_\_\_\_
13. How were your monthly utilities paid via check, credit card, etc? \_\_\_\_\_
14. Did you have a "Line of Credit" with a bank in 2014? \_\_\_\_\_
15. Did you use business or personal "credit cards" during 2014? \_\_\_\_\_
16. If so, did you obtain advances against the credit cards? \_\_\_\_\_
17. And what were the average credit cards balances (if any)? \_\_\_\_\_
18. At which bank was your "safe deposit box" maintained in 2014? \_\_\_\_\_
19. What were the contents of the "safe deposit box" during 2014 (if any)?
  - ☐ Contents: \_\_\_\_\_
20. What was the amount of any "cash on hand" during 2014?
  - ☐ Cash on hand beginning of year: \_\_\_\_\_
  - ☐ Cash on hand end of year: \_\_\_\_\_
21. Did you have any "quick access to funds" from friends or family? \_\_\_\_\_
22. Which vehicle is used for personal purposes? \_\_\_\_\_
23. Was this vehicle used for vacation? \_\_\_\_\_ If so, to where? \_\_\_\_\_
24. Has either taxpayer been previously married to anyone else? \_\_\_\_\_

**Additional Audit Questions (Business in nature):**

25. How did you obtain your experience in plumbing? \_\_\_\_\_
26. Do you conduct any advertising for your business? \_\_\_\_\_
27. Did the company have any business outside of the DFW area? \_\_\_\_\_
28. How are your prices determined for your plumbing & excavation services?  
\_\_\_\_\_
29. Once a job is completed what do you provide to the customer? \_\_\_\_\_
30. Do you accept credit cards for payment of your services? \_\_\_\_\_
31. How are you paid for services performed/jobs?  
☐ By Check \_\_\_\_\_  
☐ Wire Transfers \_\_\_\_\_  
☐ Credit Cards \_\_\_\_\_  
☐ Cash \_\_\_\_\_
32. Do you make any deposits less cash? \_\_\_\_\_
33. Who makes the bank deposits? \_\_\_\_\_
34. Do you use "preprinted" deposit slips? \_\_\_\_\_
35. Were you provided a Form 1099 for all jobs worked in 2014? \_\_\_\_\_
36. What other jobs did you have besides Kan-Man during 2014?  
☐ Job # \_\_\_\_\_  
☐ Job # \_\_\_\_\_  
☐ Job # \_\_\_\_\_  
☐ Job # \_\_\_\_\_
37. Did you have any "accounts receivable" during 2014 or are all jobs/contracts paid in full?  
\_\_\_\_\_
38. Do you have any additional bank accounts besides Bank of America? \_\_\_\_\_
39. Is business income ever deposited in the personal bank accounts? \_\_\_\_\_
40. Are personal monies ever deposited in the business bank accounts? \_\_\_\_\_
41. Who are the authorized signers on the business accounts? \_\_\_\_\_
42. Who are the authorized signers on the personal accounts? \_\_\_\_\_
43. How often are "funds transferred" between bank accounts? \_\_\_\_\_
44. Is all business income deposited in the bank? \_\_\_\_\_
45. Is any "other income" deposited in the business bank account? \_\_\_\_\_
46. What were the 2014 beginning cash & ending cash balances? \_\_\_\_\_
47. During 2014 did you maintain more than \$1,000 in cash (on hand)? \_\_\_\_\_
48. How did you determine your "total income" for 2014? \_\_\_\_\_
49. Do you provide "invoices" to customers? \_\_\_\_\_
50. Were the bank accounts reconciled during 2014? \_\_\_\_\_
51. Who maintained the books during 2014? \_\_\_\_\_
52. How did you record/track the amount of 2014 sales? \_\_\_\_\_
53. How did you record/track the amount of 2014 expenses? \_\_\_\_\_
54. How was your 2014 income recognized?  
☐ Completed contract method? \_\_\_\_\_  
☐ Accrual of income method? \_\_\_\_\_  
☐ Other?: \_\_\_\_\_

**Privilege Issues:**

E. Is there anything we discussed today and/or regarding any of the interview queries noted above that you consider as privileged?\_\_\_\_\_

F. If so, please explain: \_\_\_\_\_

\_\_\_\_\_

G. Is there anything that we did not discuss today and/or any issue you deem relevant regarding the aspects of this tax matter that you consider privileged?\_\_\_\_\_

H. If so, please explain: \_\_\_\_\_

\_\_\_\_\_

*Taxpayer Interviews-Court Case Reviews:*

*Patrick H. Wright v. Mark W. Everson, United States of America U.S Court of Appeals, 11<sup>th</sup> Circuit, 2008-2 U.S.T.C (Sept. 24 2008)*

Issue: Practice before the IRS: Unenrolled Tax Return Preparer-Representation of Taxpayer

□ 31 C.F.R. 10.7(c)(1)(viii) is a valid regulation that did not unlawfully and arbitrarily limit an unenrolled tax returns preparer's right to represent taxpayers before the IRS. In a case of first impression, the 11<sup>th</sup> Circuit Court determined that 31 C.F.R. 10.7(c)(1)(viii), which limits the scope of representation by an unenrolled representative, was a reasonable legislative regulation and not arbitrary, capricious or manifestly contrary to the statute. Congress has expressly delegated authority to the Secretary to promulgate regulations governing who could practice before the IRS. Although Code Section 7521 permits practitioner and certain other persons to represent taxpayers before the IRS in the context of a taxpayer interview, it did not define the persons permitted to practice before the IRS. Moreover, the tax return preparer could acquire the ability to fully represent clients by becoming an enrolled agent.

❑ Observation/Comment:

This image shows a single sheet of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There are approximately 20 lines visible. The paper has a slight shadow on the right side, suggesting it's resting on a surface.

**Curtis B. Keene v. Commissioner, 121 TC 8-Tax Court Summary (July 8, 2003)**

- ☐ The petitioner (Mr. Curtis B. Keene) filed a Tax Court (Court) petition disputing the Government’s “Notice of Determination” indicating that he was not permitted by the IRS Appeals Division to make an “audio recording of his CDP Hearing. The taxpayer deemed this action to be a flagrant violation of IRC §7521(a)(1). The Government contended that the taxpayer “**did not have the right**” to audio record the hearing because **it is not an “interview”** within the meaning of IRC §7521(a)(1), **and** because the Government stipulated that the taxpayer’s CDP request asserted “several frivolous & groundless” arguments. **However**, the Court ruled that pursuant to IRC §7521(a)(1), the petitioner “**did have a right**” to make an audio recording of his CDP hearing with the IRS Appeals Division.

- ☐ Observation/Comment:

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**Dominic Calafati v. Commissioner, 127 TC 219 -Tax Court Reported Decision (December 26, 2006)**

- ❑ The taxpayer filed a Tax Court (Court) petition regarding the denial of his request to “audio record” his telephonic CDP hearing. The Court upheld the Government’s petition, however, this case was critical with respect to the Court & the Government establishing & determining the **meaning (or definition) of an “In-Person Interview”** & the taxpayer’s rights attached to such “in-person interview”. This case stipulated the following:
  - The ordinary meaning of the term “**in-person**” supports respondent’s (the Government’s) argument that IRC §7521(a) refers to a “**face-to-face**” **meeting** between the interviewer and the person being interviewed. Specifically, in the context of IRC §7521(a), an “in-person interview” according to respondent contemplated an interview between a taxpayer and/or the taxpayer’s representative and an officer or employee of the Service relating to the **determination or collection** of any tax.
  - Also, together **IRC §7521(b)** and the legislative history suggest that Congress envisioned an “in-person interview” as an interview where both a Service representative and the taxpayer (or their representative) are physically present and able to “hand” information to each other.
  - Therefore **the Court concluded** that the term “in-person interview” pursuant to IRC §7521(a) refers to an interview in which the **IRS representative and the taxpayer and/or their representative are “face-to-face”**, that is they are within each other’s **physical presence**.

❑ Observation/Comment:

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