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# The Tax Times



**December 2013**

Wisconsin Society of Enrolled Agents

920-686-1040

[wsea@tm.net](mailto:wsea@tm.net)

[www.wienrolledagents.org](http://www.wienrolledagents.org)



*From your President*

*~Julie Molek, EA, Richland Center~*

The NAEA election is open now. Please keep in mind that our own Laurie Ziegler is running for Secretary/Treasurer on the National Board. Running against her is someone from California. Laurie works hard for the Midwest chapters. Let's back her 100% to show our appreciation for everything that she does for us. Let's show all that the Midwest is a force to contend with and cannot be beat back by California candidates!

To cast your vote click on or copy and paste the entire url below into your browser address bar:

<https://www.directvote.net/naea/>

and login using your unique credentials, which have been provided by NAEA via e-mail. You also should have received an e-mail with a direct link to your own unique ballot. Two reminders have been sent out to date.

**Tax updates for Federal and WI with David and Mary Mellem** is scheduled for January 10, 2014. It will be held at the

Holiday Inn of Fond du Lac WI

625 W. Rolling Meadows Dr.

Fond du Lac, WI 54937

1-920-923-1440

A block of rooms have been reserved at a special flat rate of **\$95.00** + tax for a single/double occupancy per night **if you reserve your room prior to December 1, 2013.**

Go to <http://wienrolledagents.org/> to get the information if you have misplaced your seminar flyer. It will also have a map to the hotel. If you are not tech oriented and have no one who can retrieve the information for you either call, phone: 1-920-686-1040, fax: 1-414-445-2779 or email: [wsea@tm.net](mailto:wsea@tm.net).

## *From your President, cont.*

David and Mary are popular national speakers whose home base is in Wisconsin. Let us give them our outstanding support.

Remember after tax season, we will have our annual meeting and banquet at the Brookfield Suites in Brookfield WI. Marc Dombrowski, EA (another national speaker) will be talking on a variety of topics.

Have a great tax season! Try to stay sane with the delays, changes, etc. that will be going on.

## *Member News*

### *Glenn Haukeness, EA*

Glenn Haukeness, EA of Sturm, Wisconsin passed away peacefully in October 2013 at his home. Glenn started Haukness Financial Service over 40 years ago, which provided insurance, tax and real estate services. Before he passed he got the chance to celebrate an "I Will Never Retire" party and his tax business carries on owned by his employees. Glenn had served on numerous boards and committees in the past and he should be remembered as an asset to the tax professional community.

Thanks to Brenda Larson, EA for providing this information. She stated that she is a member of both NAEA and NATP because of his encouragement. This is a reminder to all of us to be like Glenn and encourage those around us to participate and become involved.

### *Edna Kratochvil Tesch, EA*

~Dave Fayram~

Edna was President of WSEA from October 21, 1994 until October 19, 1995. She was the sixth President. Dick Bast was replaced as Executive Director by Don Wollersheim during her tenure. Edna practiced in Elkhorn for many years.

She sold her practice and moved to Seminole, Alabama when she married Gary Fillmer. We did not see her much after she moved, but she did continue to practice in Alabama.

Marty Dunn Till talked to Gary and to Edna recently. Marty passed along that Edna seems to be in the grip of Alzheimer's disease now. Edna needs to be fondly remembered and she needs our prayers.

Edna was the sixth President and I was the fifth. She was sworn in by Les Shapiro (a memorable event in itself) at the WSEA Annual Meeting on October 21. The meeting was held at the Abbey Motel & Convention Center in Fontana. I was standing near her as we started walking back to our seats. She put her arm around me, drew herself up to her full height and whispered very quietly in my ear, "You'll protect me won't you?" I laughed and said I would. Those who knew Edna, knew that she did not need much protecting.





- ❖ Vote By Monday, December 16<sup>th</sup>, 2013 5pm Pacific Time for NAEA National Board
- ❖ Renew your PTIN by Tuesday, December 31<sup>st</sup>, 2013
- ❖ EA's with SSN ending, 4,5, and 6 Renew your EA Status by Friday, January 31<sup>st</sup>, 2014 – Use [Form 8554](#) or follow this link to the correct online form at pay.gov.  
<https://www.pay.gov/paygov/forms/formInstance.html?nc=1386553002845&agencyFormId=19304437&userFormSearch=https%3A%2F%2Fwww.pay.gov%2Fpaygov%2FkeywordSearchForms.html%3FshowingDetails%3Dtrue%26showingAll%3Dfalse%26sortProperty%3DagencyFormName%26totalResults%3D2%26keyword%3D8554%26formAction%3DGo%26ascending%3Dtrue%26pageOffset%3D0>
- ❖ Register for the Friday, January 10<sup>th</sup>, 2014 WSEA Seminar!
- ❖ Read up on the Affordable Care Act and how it may affect your clients.
- ❖ Prepare for Tax Season!
- ❖ Have a Merry Christmas and a Happy New Year!
- ❖ Be prepared for filing delays.

*WSEA Facebook Group ~Michelle McBride, EA~*



WSEA recently started the WSEA Closed Facebook group—a place that members can discuss issues, ask questions, share frustrations, or just get to know each other better. The group is “closed” meaning everyone who is your “friend” cannot see your posts... only other members of the group can. You must request to be part of the group. Trish Evenstad or I can “approve” you. We do this for the safety of the group. Please contact either of us on Facebook to be added to the closed group.

I also always want everyone to remember if you have questions, concerns, or suggestions of how we

can make WSEA more valuable to each and every one of you, please do not hesitate to contact any of the board members. We are available; our contact information can be found on the WSEA website (<http://www.wienrolledagents.org/ContactUs.html>).

We would appreciate any support. If you have thought about becoming involved, but are not sure of what you could do, please say hello via phone, e-mail, or reach out at the January conference in Fond du Lac.

Thank you!





## 2014 Tax Season to Start Later Following Government Closure

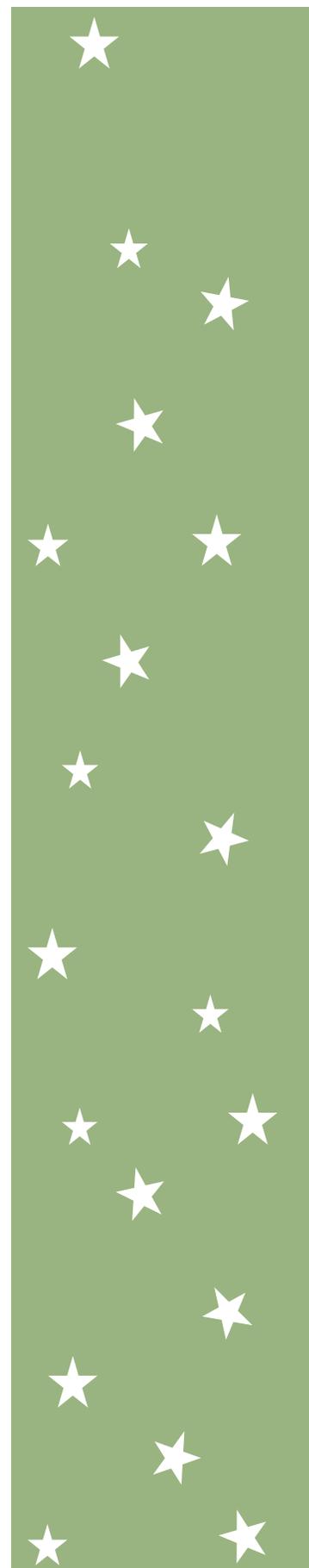
The Internal Revenue Service announced a delay of approximately one to two weeks to the start of the 2014 filing season to allow adequate time to program and test tax processing systems following the 16-day federal government closure. The original start date of the 2014 filing season was Jan. 21, and with a one- to two-week delay, the IRS would start accepting and processing 2013 individual tax returns no earlier than Jan. 28 and no later than Feb. 4. For more information, search [2014 Tax Season to Start Later](#) on IRS.gov.

## IRS Reduces Photocopy Fee

Enhanced program efficiencies and improved technology have allowed the Service to reduce the [tax return photocopy fee \(Form 4506\)](#) from \$57.00 per copy to \$50.00, effective Oct. 1, 2013. Requests should normally be filled within 75 days. Please note that tax return transcripts often suffice in place of return copies – and transcripts are available free.

## 2014 Tax Items of Interest

- ❖ The 39.6% Tax rate will affect Single people with income above \$406,750 (\$457,600 for MFJ)
- ❖ Standard Deductions:
  - \$6,200 Single/MFS
  - \$12,400 MFJ
  - \$9,100 HOH
- ❖ Exemption Amount - \$3,900 will begin to phase out when AGI reaches \$254,200 (S) and \$305,050 (MFJ) and disappear when AGI is \$376,700 (S) and \$427,550 (MFJ)
- ❖ AMT Exemption Amount \$52,800 (S) and \$82,100 (MFJ)
- ❖ Maximum EIC allowed \$6,143 (MFJ with 3 or more children)
- ❖ Estate Exclusion \$5,340,000
- ❖ Gift Exclusion remains \$14,000
- ❖ Employee Contribution Limit to FSA - \$2,500
- ❖ Foreign Earned Income Exclusion - \$99,200
- ❖ Mileage Rates
  - Business Rate – 56 cents per mile
  - Medical and Moving Rate – 23.5 cents per mile
  - Charitable Rate – 14 cents per mile





**Sales and Use Tax Frequency Threshold Changes**

In November letters went out to business owners notifying them of change in filing frequency for sales and use tax returns. The new 2014 thresholds for filing frequency are:

- ❖ Early Month (Due 20<sup>th</sup>) - \$3,601 or more per quarter
- ❖ Monthly (End of Month) - \$1,201-\$3,600 per quarter
- ❖ Quarterly - \$601-\$1,200 per quarter
- ❖ Annual - \$600 or less per year

If taxpayers wish to keep their current filing frequency they can go onto My Tax Account and select the “Keep filing Frequency” option in your sales and use tax account. This request must be made by December 31, 2013. If requesting to file more often you can make your request after December 31, 2013 by e-mailing [DORRegistration@revenue.wi.gov](mailto:DORRegistration@revenue.wi.gov). Filing frequency changes are effective January 1, 2014.

**Contributions To College Savings Accounts**

If you make contributions to a college savings account by December 31, you can take a deduction on your tax return for that year.

Wisconsin law provides a subtraction from income for up to \$3,000 of the amount contributed to a college savings account (EdVest or "tomorrow's scholar") or tuition expense program.

The owner of the account or a person authorized to contribute to the account such as a parent, grandparent, great-grandparent, aunt, or uncle of the beneficiary is allowed the subtraction from income for up to \$3,000 of the amount the person contributed to the college savings account or tuition expense program if the beneficiary of the account is the owner's or authorized person's child, grandchild, great-grandchild, niece, or nephew.

**Wisconsin Department of Revenue Collections FY2014 through October 13**

<b>Revenue Source</b>	<b>FY 2014 YTD (\$ thousands)</b>
Individual Income	2,287,463
General Sales & Use	1,221,009
Corporate	264,698
Excise	191,253
Other	22,333
<b>Total General Purpose Revenue</b>	<b>3,986,756</b>

This table does not include taxes collected by the Office of the Commissioner of Insurance, administrative fees, and other miscellaneous revenue. It only reflects General Purpose tax revenue collected by the WIDOR.



*Pictures from September 2013 WSEA/MnSEA Joint Seminar*



## *NAEA Orlando ~ Trish Evenstad, EA*



This November I had the privilege to attend NTPI Level 1, the NAEA board meeting and the Schuldiner/Smollen Leadership Academy. Let's just say this was an awesome event. The NAEA staff was so friendly and these events were organized amazingly. NTPI Level 1 is a great start to learning valuable lessons about representation. This level is offered in person or online. I prefer to take the classes in person. With all of the information that was presented, I'm glad I was there in person to be able to ask questions and have the interaction with the other attendees. All of the instructors were very knowledgeable and made the seminars interesting and educational. Another great thing about attending the seminars in person was all of the amazing Enrolled Agents that I met in Orlando. It was great to be able to network with the other attendees and the instructors. Being there in person allows you to build a network with other Enrolled Agents that you can feel comfortable to bounce questions or situations off of. For those interested in attending NTPI, there are scholarships available. The next time any of the levels will be available is in Las Vegas, NV next August.

The NAEA board meeting was an interesting event. I have never attended a board meeting that had this much order or structure involved. It was very interesting to see how the board meeting flowed and the proper procedures that need to be followed. It ended up a long day but well worth the time.

Finally, it was on to the Schuldiner/ Smollen Leadership Academy. I was so excited to be attending the leadership academy and to find out what I was going to learn to help WSEA grow. It was two and a half days packed with information. All of the information that was presented to us will be very valuable and aid in improving WSEA. One very helpful thing that I learned was that NAEA has many great resources for us as members of National that we can access at any time on their website to help our businesses. They have engagement letters, disclosure consent forms, conflict of interest forms, customizable news releases, client newsletters, and premade presentations. The information covered will be invaluable to our local society as we will be able to share it with both existing and new members by increased networking efforts. I look forward to working with my fellow board members to help our society grow and make it stronger. Since there were only 25 attendees of leadership academy (this is limited to a small group to be the most effective), it was a more intimate setting and we got to know each other well. I now have more great contacts to network with. The next Schuldiner/Smollen Leadership Academy will be in Baltimore, MD in June of 2014 and I encourage anyone who hasn't taken the opportunity to attend to do so.





Have you been to a National event? I have been fortunate enough to be able to attend all three levels of the National Tax Practice Institute (NTPI) in Las Vegas and Washington D.C. where I met and networked with many members of NAEA. Most recently I volunteered to work the check in desk for new attendees of NTPI Level 1 and Level 2 in Orlando.

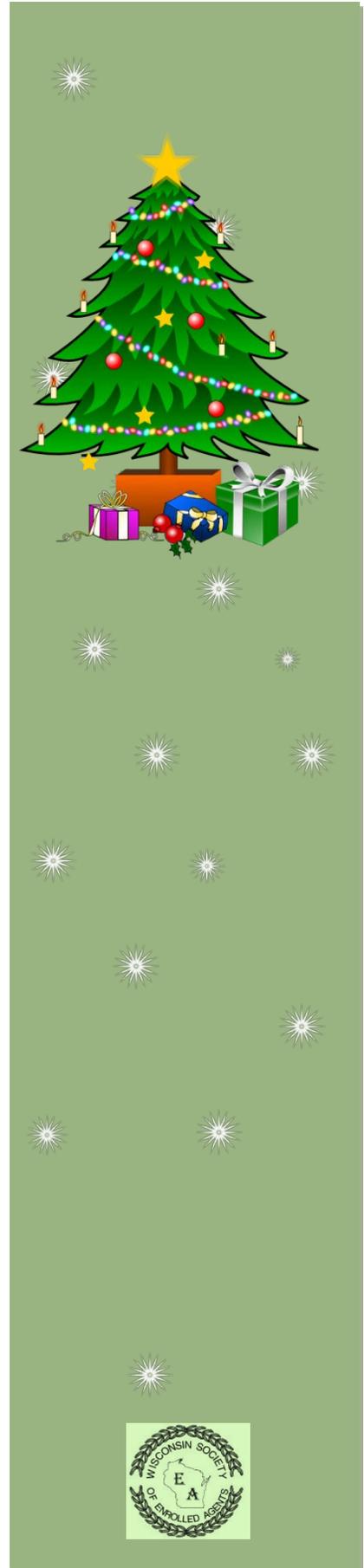
The reason I went to Orlando in the first place was to attend the Affiliate Presidents Exchange (APEX) meeting. Julie Molek, our President, was unable to attend, so as Vice President I went in her place.

Meeting with so many other affiliate leaders was a wonderful experience. We were able to have a breakfast meeting with the NAEA National Board on Friday morning to discuss the NAEA Strategic Plan and ways we can work together to improve the affiliates. We all worked together to bring ideas to the board in this meeting. I thought that the meeting with the board was a regular part of APEX but apparently it was new to the agenda. It was so very well received that I suspect it will become a regular part of the meetings in the future.

There were “Bring and Brag” sessions where each affiliate leader contributed suggestions of what is working in their home state and ways on how to implement these ideas in our own state affiliates. There were many handouts and different sessions, each meant to help build the affiliates and, I feel, to help us understand that each affiliate is independent, yet we all have each other. Presentations by GetNetSet websites and Gleim were also well received.

One of the things I liked the best about the APEX gathering is getting to put a face with a name. Many of us are on the monthly conference calls, and even on Facebook or members of LinkedIn groups, but to meet, shake hands, and even hug, was great! I feel that I have strengthened my relationships with other affiliate leaders and can go to them with questions or concerns. The same goes in return, as we have done some great things in this state. I look forward to bringing all the great ideas that I learned about at APEX back to our board and members to help our society grow!

*Pictures from Orlando*



*~ David J. Fayram, EA ~*

In my article from December 2012 about penalties I did not use the acronym “FTA” to indicate “first-time abatement” because that acronym was used for something else: “Fraud Technical Advisor.” The IRS does not shine the spotlight on its FTAs, so I thought I would shine my own tiny spotlight on FTAs.<sup>1</sup>

At the IRS, civil audits usually start with a letter stating that the taxpayer’s return has been selected for audit. IRS Publication 1, *Your Rights as a Taxpayer*, comes along with this letter. In an attempt to sooth taxpayers and to induce them to cooperate with the audit, Publication 1 states: “IRS employees will explain and protect your rights as a taxpayer throughout your contact with us.” After this assurance that IRS employees have the taxpayer’s interests at heart, taxpayers have little reason to contact an EA to represent them at the audit.

For our purposes here, there are two kinds of audits. The first is a civil audit whose only purpose is to determine the correct amount of tax. Taxpayers have the burden of proving their income and deductions. They must present evidence sufficient to convince an IRS employee that correct figures were reported on their tax returns. The second kind is a criminal procedure whose ultimate purpose is to determine if the taxpayer should go to jail. Here the burden is on the IRS to show that the taxpayer’s returns are wrong and that the taxpayer intended that they be wrong.

Taxpayer conduct under these two different circumstances should be completely different. In a civil audit the taxpayer should be open in presenting all the facts in the hope of sustaining their burden of proving their income. In a criminal audit, the taxpayer has no incentive to prove anything. Filing an amended return for example would be foolish because it would only be used by the IRS as an admission that the original return was wrong. This difference should make clear that the IRS has a strong incentive to mislead taxpayers who are the subject of a criminal investigation.

Thank goodness for the United States Constitution where the Fourth Amendment prevents “unreasonable searches and seizures.” There is an extensive set of court cases which prevent the use of evidence gathered by fraud, trickery, or deceit from use by the government in its attempt to prove fraud of the taxpayer (it is bad form for the government to prove fraud by committing fraud!). Here are a couple of examples.

1. In *Tweel*<sup>2</sup>, the taxpayer’s representative expressly asked the revenue agent if special agents were involved in this case, or if only the revenue agent was conducting the examination. The revenue agent said no special agents were involved, but failed to mention that the audit was requested by the Organized Crime and Racketeering Section of the Department of Justice. All of the evidence obtained from that point forward was excluded from Mr. Tweel’s criminal trial.
2. In *Toussaint*<sup>3</sup>, the District Court excluded everything obtained after a revenue agent discovered badges of fraud.

These cases are from the 1970s. Unfortunately, it has become more difficult for criminal defendants to have evidence excluded by claiming that they were deceived by the IRS. Apparently IRS employees will “explain and protect your rights,” unless such an explanation would have a negative impact on the audit. In the Ninth Circuit for example defendants must point to specific affirmative misrepresentations by the IRS. In this environment, you will find it difficult to pry clear answers from revenue agents as to the existence of a criminal investigation. Here is the advice from the Internal Revenue Manual to IRS employees about how to answer questions from taxpayers about possible criminal investigations:

## *Dave's Corner: The Truth about FTAs, cont.*

~ David J. Fayram, EA ~

When the taxpayer asks if a fraud referral is being considered or whether CI is involved, the examiner or revenue officer **must not** give a false or deceitful response. Guidance from the courts provides that compliance employees:

- May decline to answer questions about criminal potential,
- May not deceive taxpayers when asked specifically about the character or nature of an investigation,
- Are not required to initiate disclosure about developing indicators of fraud or a potential referral to CI, or
- May simply advise that when firm indicators of fraud are present, a referral to CI is required.<sup>4</sup>

This topic is much too big to cover in a small space, but we should tarry for a moment because the issue is a very important indicator of how the IRS views itself. Internal Revenue Manual paragraph 25.1.3.2 is the institutional expression of a boundary balancing two conflicting goals of the IRS. In order “to protect the trust between citizen and government necessary for the maintenance of democracy,”<sup>5</sup> the IRS must undertake to protect the taxpaying public against scofflaws who seek to avoid paying taxes while at the same time protecting the rights individuals have to fair and forthright dealing by the IRS. One might hope that the contents and the actual implementation of this paragraph would be reviewed on a regular basis by the top officials at the IRS. The author has always been a little disappointed in this paragraph, thinking that it strayed too far toward coaching employees on how to avoid answering questions that were rightfully posed.

Before December 27, 2011 paragraph 25.1.3.2(1) contained the following statement, “However, silence or declining to provide an affirmative yes or no on the matter is not false or deceitful.” The basis for this statement might have been a misreading of the following statement by District Court Judge Richard Seeborg in a case called *Kim*, “the Ninth Circuit has confirmed that silence, unless intentionally misleading, will not be equated with fraud.”<sup>6</sup> A better boundary can be found in our friend *Tweel*, “silence can ... be equated with fraud where there is a legal or moral duty to speak or where an inquiry left unanswered would be intentionally misleading.”<sup>7</sup>

In any case, it was somewhat heartening to find the sentence deleted and taxpayer rights expanded ever so slightly as a result. EAs should be aware that some IRS employees might remember the sentence and might not be aware that it has been removed.

While paragraph 25.1.3.2 defines a boundary for IRS employees, EAs might also look at the language as a boundary. Our profession and license are clearly limited to civil matters. We do not have legal competence (or, in most cases, actual competence) to represent taxpayers in criminal matters. We do not have lawyer-client privilege! Some might conclude that this area marks a boundary on EA practice. Perhaps we should consider whether to leave smoking out the IRS as to the existence of a criminal investigation to the lawyer.

If you find it necessary to inquire about criminal potential, your questions should be clear, pointed, repeated, and documented<sup>8</sup>. Perhaps they should be prefaced by a comment that you are aware of the advice given by the *Internal Revenue Manual* including the deleted sentence. Of course your leverage is that you will withdraw from the representation in favor of an attorney unless you get clear and convincing answers. Be careful! The whole thing is difficult and some of the possible repercussions are disastrous. What if the



## *Dave's Corner: The Truth about FTAs, cont.*

*~ David J. Fayram, EA ~*

revenue agent had overlooked the badges of fraud until you brought them up? Talk to the attorney and the client before you try to elicit the answers.

In the past, criminal investigations were (in theory) conducted exclusively by the Criminal Investigations Division and civil audits by the Examination Division. In this circumstance, the dramatic appearance of a special agent from the Criminal Investigations Division would usually put the taxpayer on notice that IRS employees would no longer explain and protect his or her rights and that any promises to that effect in Publication 1 were null and void.

In order to deceive taxpayers a bit longer in the civil audit process, the IRS felt the need to create a group of people in the Examination Division who would be experts in fraud cases. Then it could argue in court that a "criminal" investigation had not commenced (even though a revenue agent had uncovered badges of fraud) because no special agents were involved. These employees of the Examination Division are fraud technical advisors.

Here is a brief summary about what happens after a revenue agent (or revenue officer) discovers badges of fraud. First the agent must notify the group manager. If the group manager agrees, the agent is to contact a fraud technical advisor. Then the three of them are to create a "plan of action." The first step requires the revenue agent to complete Form 11661, *Fraud Development Recommendation* (revenue officers use Form 11661-A). This places the case in "fraud development status."<sup>9</sup> The case remains in this status until affirmative acts of fraud are established or a determination is made that the potential for fraud no longer exists. One potential tipoff is that the agent must request copies of the original tax returns if they have not already been secured. Perhaps this provides an incentive to take our time providing these returns to revenue agents. The taxpayer is not notified about any of this. In other words, you will probably never meet a fraud technical advisor acting in his or her official capacity.

If the plan succeeds in establishing firm indicators of fraud, the agent is to notify the group manager or fraud technical advisor and stop working the case. Usually the fraud technical advisor will recommend referral to the Criminal Investigations Division using Form 2797, *Referral Report of Potential Criminal Fraud Cases* at this point. The agent is clearly warned that, "The compliance employee or the group manager should never obtain advice from CI for a specific case under examination/collection activity."<sup>10</sup>

All of these procedures are inconsistent with the statements in Publication 1 that IRS employees will protect taxpayer rights. These same employees are law enforcement officials who were hired to protect the interests of the tax-paying public and not the interests of individual taxpayers who might have violated the law. A government interested in ethical practice would modify or remove these statements from Publication 1.

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<sup>1</sup> Many of the citations for this article were obtained from the following authors. Andrew D. Allen and Martin Al Schainbaum, *Substance over Form: The IRS Fraud Technical Advisor, Civil or Criminal Agent?*, 14, 6, Tax Pract. & Proc., 45, (December 2012-January 2013).

<sup>2</sup> *N. J. Tweel*, CA-5, 77-1 USTC ¶ 9330, 550 F2d 297.

## *Dave's Corner: The Truth about FTAs, cont.*

*~ David J. Fayram, EA ~*

<sup>3</sup> *A. Toussaint*, DC-Tex., 78-2 USTC ¶ 9793, 456 FSupp 1069.

<sup>4</sup> IRM § 25.1.3.2 (12/27/2011).

<sup>5</sup> *Schachter*, DC-Calif., 1993 U.S. Dist. LEXIS 19054 (Sept. 7, 1993).

<sup>6</sup> *Kim*, DC-Calif., 2010 WL 3490228.

<sup>7</sup> *H.R. Prudden*, DC-5, 70-1 USTC ¶ 9336, 424 F2d 1021, cited by *Tweel*, 550 F2d 297, at 299.

<sup>8</sup> Here is a list of possible questions:

1. Is this audit purely civil, or is a Fraud Technical Advisor involved or contemplated?
2. Is a referral to criminal investigations contemplated?
3. Has a referral of criminal investigations already been made?

A letter to the revenue agent with these questions might be more effective in documenting the responses.

<sup>9</sup> IRM § 25.1.2.2(2), 6 IRM Abr. & Annot. (Thomson Reuters), p. 25.1-14 (9/2013).

<sup>10</sup> *Ibid.*

## *Clergy Tax-Free Housing Allowance Ruling*

*~ Katie M. Jansen, EA ~*

In late November of this year U.S. District Judge Barbara Crabb ruled in favor of the Madison based Freedom From Religion Foundation (FFRF) by declaring that 26 U.S.C. “§ 107(2) violates the establishment clause under the holding in *Texas Monthly, Inc. v. Bullock*, 489 U.S. 1(1989), because the exemption provides a benefit to religious persons and no one else, even though doing so is not necessary to alleviate a special burden on religious exercise.”<sup>1</sup>

26 U.S.C. § 107(2) is the code section that refers to the cash housing allowance (not the in-kind allowance) that is provided to clergymen as a tax-free benefit. If this case is not appealed this code section has been declared a violation of the first amendment.

This ruling has received very little notice, which, in my opinion, may be directly related to the launch and crash of HealthCare.gov and perhaps the government shut down. However, for those of you who work with clergyman this ruling is very important. In this case the plaintiff sees 26 U.S.C. § 107(2) as a loophole in the tax law that “allows a clergy member to use the untaxed income to purchase a home, and then, in a practice known as ‘double dipping’, deduct interest paid on the mortgage and property taxes.”<sup>2</sup>

The impact of this ruling can only be estimated. The Joint Committee on Taxation Estimate of Federal Tax Expenditure expects the full exclusion (cash and in-kind) to be “worth about \$700,000,000 per year.”<sup>3</sup> To most people that number looks significant, but in reality it

## *Clergy Tax-Free Housing Allowance Ruling, cont.*

*~ Katie M. Jansen, EA ~*

may be closer to half a billion because most religious organizations will probably switch to using the in-kind allowance rather than the cash allowance.<sup>4</sup> Judge Crabb even acknowledged that part of her decision came from previous discussions that clergymen were expected to save approximately \$2.3 billion in taxes between 2002 and 2007 because of this exemption.<sup>5</sup>

The tax-free in-kind allowance has been around since 1921 and in 1954 the cash version of the allowance was created.<sup>6</sup> According to the Family Research Council, an organization whose mission is “to advance faith, family and freedom in public policy and the culture from a Christian worldview,”<sup>7</sup> this benefit has helped churches and clergy “carry the burden of many social ills that would otherwise become the burden of taxpayers and the federal government.”<sup>8</sup> FRC’s President, Tony Perkins, also called this ruling “supreme arrogance.”<sup>9</sup>

The expectation is that due to “strong clergy influence on both sides of the aisle”<sup>10</sup> and because of the amount of dollars at stake<sup>11</sup> the defendants, U.S. Treasury Secretary Jacob Lew and acting IRS commissioner Daniel Werfel, can expect an appeal hearing in the 7<sup>th</sup> U.S. Circuit Court of Appeals.<sup>12</sup>

Although for now this cash housing allowance has been declared unconstitutional, it is important to realize that like many “tax benefits” and other “government benefits” abuse is not uncommon. We all have seen or heard of clients who claim EIC or get disability benefits when they have no apparent disabilities or live on food stamps despite being able to afford brand name clothes, handbags and trips to the tattoo shop or the salon. The point is, how should our society provide for those people who actually need these services and how do we stop abuse of these programs and benefits? I do not have an answer and it is clear to me that Congress can’t seem to agree on small issues much less address these larger problems. So for those of you with clients that may be impacted by this or that work with non-profit religious organizations keep your eyes and ears open for more news on this ruling.

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<sup>1</sup> Reilly, P. J. (2013, November 23). Forbes.com. Retrieved November 25, 2013, from Forbes.com: <http://www.forbes.com/sites/peterjreilly/2013/11/23/judge-declares-exclusion-for-clergy-housing-payments-unconstitutional/>

<sup>2</sup> Erickson, D. (2013, November 23). Wisconsin State Journal. Retrieved December 9, 2013, from [http://host.madison.com/news/local/judge-strikes-down-law-that-gives-clergy-members-tax-free/article\\_b8b1c816-bd2b-5f46-9d5a-68c5ad0ed39d.html](http://host.madison.com/news/local/judge-strikes-down-law-that-gives-clergy-members-tax-free/article_b8b1c816-bd2b-5f46-9d5a-68c5ad0ed39d.html)

<sup>3</sup> Reilly, P. J. (2013, November 23). Forbes.com. Retrieved November 25, 2013, from Forbes.com: <http://www.forbes.com/sites/peterjreilly/2013/11/23/judge-declares-exclusion-for-clergy-housing-payments-unconstitutional/>

<sup>4</sup> Ibid



## *Clergy Tax-Free Housing Allowance Ruling, cont.*

*~ Katie M. Jansen, EA ~*

<sup>5</sup> (Erickson, 2013)

<sup>6</sup> (Rielly, 2013)

<sup>7</sup> FRC.org. (2013, December 9). Retrieved from Family Research Council: <http://www.frc.org/mission-statement>

<sup>8</sup> Kumar, A. (2013, November 24). The Christian Post. Retrieved November 25, 2013, from <http://www.christianpost.com/news/court-strikes-clergy-tax-free-housing-allowances-frc-calls-it-supreme-arrogance-109440/>

<sup>9</sup> Ibid

<sup>10</sup> (Reilly, 2013)

<sup>11</sup> Associated Press. (2013, November 23). Fox News. Retrieved December 9, 2013, from <http://www.foxnews.com/us/2013/11/23/federal-judge-in-wisconsin-strikes-law-that-gives-clergy-tax-free-housing/>

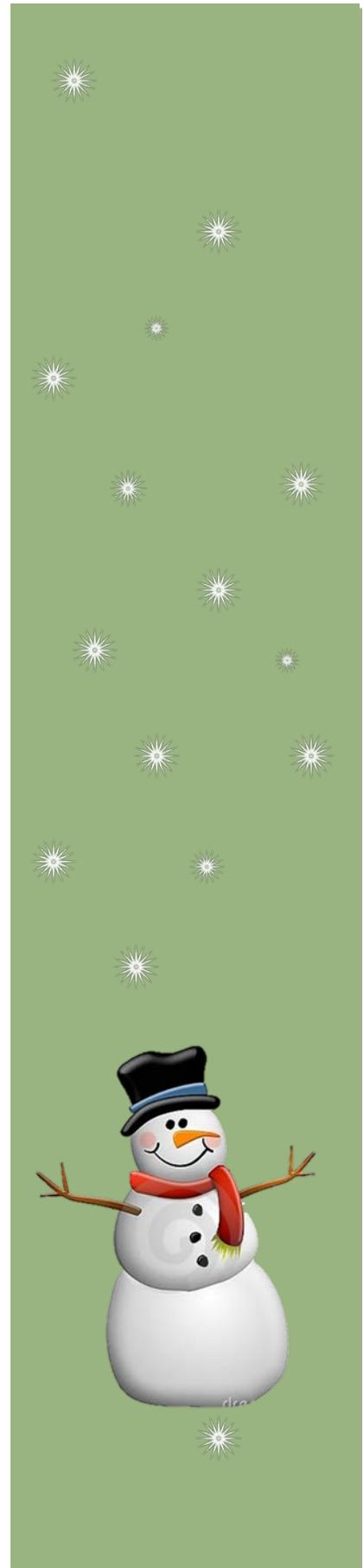
<sup>12</sup> (Erickson, 2013)

### *EA's in the News*

In a September *Accounting Today* article regarding the IRS appeal on the Loving v. IRS decision an interesting comment from a fellow tax professional was posted. The article discusses the appeal of the decision by Judge Boasberg that the IRS does not and never had the authority to regulate tax professionals. The article is an interesting read by itself, [click here to read it](#). As EAs the comment may be of interest and is an example of a way to promote our status. This comment was edited and shortened.

“... If you want a license to display, become an EA or CPA!!! These are already recognized, accepted and approved avenues for governance of tax practitioners! ... Lets start with educating people first! Why not require paid tax preparers to obtain annual CPEs to renew PTINs? Wouldn't this help ensure that at least SOME education is happening – and possibly sinking in? Let me reiterate, if you want a license to display, become an EA or CPA...”

Posted by: cwlovestax September 25, 2013 1:56 PM



**REMEMBER TO VOTE BEFORE DECEMBER 16<sup>TH</sup>!**

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mathematician. It takes a  
philosopher." — Albert  
Einstein on filing tax returns*



10-23

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