

Bond Case Briefs

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Changes in the Audit Process for Tax Advantaged Bonds Related to IRS Division Reorganization.

Last week at the National Association of Municipal Bond Lawyer's Tax and Securities Law Institute, the IRS Commissioner for the Office of Tax Exempt and Government Entities (TE/GE) announced changes to TE/GE's operations and structure. These changes will consolidate and standardize certain operations. In particular:

Effective May 1, 2017, TE/GE will implement the following changes:

- TE/GE will consolidate into a new Compliance, Planning and Classification Office (CP&C), discussed below, certain work being done in each of the TE/GE functions:
 - Exempt Organizations (EO)
 - Employee Plans (EP)
 - Federal State and Local Government (FSLG)
 - Indian Tribal Government (ITG)
 - Tax Exempt Bonds (TEB)
- TE/GE will move FSLG, which largely deals with employment tax issues, to EO.
- TE/GE will restructure TEB and consolidate it with ITG under a new Director TEB/ITG, discussed below.
- Effective April 1, 2017, TE/GE will standardize the information document request (IDR) and related enforcement process for TE/GE IDRs, including IDRs for tax-advantaged bonds.

This Alert discusses these changes and is relevant to taxpayers, including issuers and borrowers, and their attorneys working with TEB, as well as attorneys who work with TE/GE's EO, EP, FSLG, and ITG Offices.

Compliance, Planning and Classification Office

CP&C is a new office that will be responsible for case selection and closed case quality review for all the TE/GE functions. For case selection, CP&C will conduct research and review data, identify issues with the help of technical experts from each of the functions, and select and assign cases to the functions. CP&C will be led by Steve Martin, who currently works on case classification and delivery in the Large Business and International (LB&I), transfer pricing office.

TEB Restructuring and Consolidation with ITG

TE/GE is consolidating TEB and ITG under a Director TEB/ITG, who will initially be Christie Jacobs, the current Director ITG. This Director will have the ITG and TEB examination functions to which CP&C will assign cases and a technical function. The TEB examination work will remain largely unchanged, but that office will be reduced from five to three workgroups. TEB's Compliance and Program Management Office will be eliminated and the operations of that office not consolidated within CP&C will be moved to the technical function that will be responsible for TEB's Voluntary

Closing Agreement Program (VCAP), direct-pay bond allocations, and Knowledge Management (K-Net) which is a formal structure created in 2015 to consolidate technical expertise and facilitate knowledge transfer. The Commissioner did not specify which function would perform education and outreach activities currently done by CPM and ITG.

IDR Process

Beginning April 1, TE/GE will implement new standard procedures and best practices for IDRs. This new process largely incorporates LB&I's IDR practice. In short, it reflects an effort to make the IDR process more collaborative and to provide standard IDR procedures.

Under the new process:

1. An agent will mail to the taxpayer the initial contact letter, which the procedures suggest should include the initial IDR.
2. After 10 business days, the agent will contact the taxpayer to discuss the issues being examined and the items being requested in the IDR.
3. The agent may refine the IDR based on that conversation and will attempt to arrive at a mutually agreed upon response date with the taxpayer; the Commissioner made clear that a request for significant time to obtain an attorney would likely not be granted. If a date cannot be agreed upon, the agent is to set a reasonable date.
4. The agent will review the response and notify the taxpayer whether the response is complete or whether additional information is needed.
5. If additional information is needed, the additional material will be also be subject to due dates, some of which are mandated in the procedures and may be as short as 15 business days.
6. If the request is not fully and timely met after a second extension to submit the additional information, the agent is instructed to begin the enforcement process, which could lead to a pre-summons and summons to supply the information.

by Rebecca L. Caldwell-Harrigal

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Greenberg Traurig LLP