



May 2018: FOIA: When, How, and Why?

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2018 New England IRS Representation Conference

- Thursday 11/29/18 – LITC Workshop (Quinnipiac Law)
- Friday 11/30/18 – Mohegan Sun
- Members get free access
- Book your hotel early!



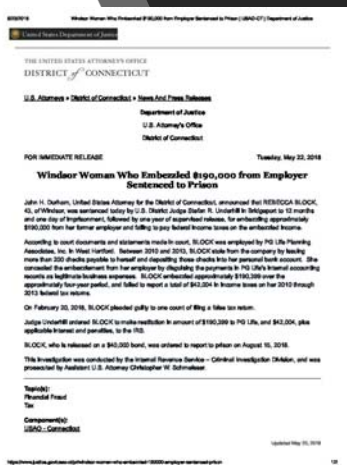


Ongoing Monthly CPE

Get free programming through Tax Genius

News Flash: Rebecca Block Sentenced 5/22!

- She pleaded guilty to embezzling more than \$190,000 from her West Hartford employer over a period of several years
- Eric Green (me) brought the case to CI
- A funny thing happened on the way to the TFRP...



News Flash: Rebecca Block Sentenced 5/22!

- Block concealed the embezzlement from her employer by disguising the payments in PG Life's internal accounting records as legitimate business expenses.
- She embezzled a total of \$190,399 over the approximately four-year period
- Failed to report a total of \$42,004 in income taxes on her 2010 through 2013 federal tax returns
- On Feb. 20, 2018, Block pleaded guilty to one count of filing a false tax return.



News Flash: Rebecca Block Sentenced 5/22!

- Judge Underhill ordered Block to make restitution in amount of \$190,399 to PG Life, and \$42,004, plus applicable interest and penalties, to the IRS
- Block, who is free on a \$40,000 bond, was ordered to report to prison on Aug. 15, 2018



Freedom of Information Act (“FOIA”)

- The Freedom of Information Act, 5 U.S.C. 552, provides any person the right to request access of federal agency records or information
- The FOIA request must be in writing and sent to the Disclosure Central Processing Unit.
- Letters requesting records under the FOIA can be short and simple.



When, Why and How: When

- Once an IRS Exam notice is received you may request a copy of the administrative file
- Certainly after an exam is completed you want to make the request



When, Why and How: Why

- It is extremely helpful to have the IRS administrative file
- Pre-audit: you may pick up on what started the audit and where it may be heading
- Post-audit: you can see what the auditor noted and create defenses/appeal arguments around it



When, Why and How: How

- How do you make a FOIA request?
- Simple letter with:
 1. The letter should state that the request is being made under the Freedom of Information Act.
 2. The letter should identify the records that are being sought as specifically as possible.
 3. The name and address of the requester must be included.
 4. Copy of the requester's driver's license or a sworn or notarized statement swearing to or affirming their identity.
 5. If by the POA, include the 2848
 6. Make a firm commitment to pay any fees which may apply



FOIA – Exemptions

- Exemption 1. Classified Documents Pertaining to National Defense and Foreign Policy
- Exemption 2. Internal Personnel Rules and Practices
- Exemption 3. Information Exempt Under Other Laws
- Exemption 4. Trade Secrets and Confidential Commercial or Financial Information
- Exemption 5. Inter-Agency or Intra-Agency Memorandums or Letters
- Exemption 6. Personal Privacy
- Exemption 7. Law Enforcement
- Exemption 8. Financial Institutions
- Exemption 9. Geological Information



FOIA Exclusions

Exclusion 1 - The first exclusion may be used when a request seeks information described in the FOIA, subsection (b)(7)(A), and meets the following requirements:

- The investigation in question must involve a possible violation of criminal law.
- There must be reason to believe that the subject of the investigation is not already aware that the investigation is underway.
- Disclosure of the existence of the records could reasonably be expected to interfere with enforcement proceedings.
- IRS may respond to an FOIA request for investigatory records as if the records are not subject to the requirements of the FOIA when all of these conditions exist. In other words, the IRS response does not have to reveal that it is conducting an investigation.

Exclusion 2 - Informant records maintained by IRS criminal law enforcement filed under the informant's name or personal identifier are covered by Exclusion 2. IRS is not required to confirm the existence of these records unless the informant's status has been officially confirmed. This exclusion helps agencies to protect the identity of confidential informants.

Exclusion 3 - The third exclusion only applies to records maintained by the Federal Bureau of Investigation, which pertain to foreign intelligence, counterintelligence, or international terrorism. When the existence of these types of records is classified, the FBI may treat the records as not subject to the requirements of FOIA.



FOIA Request

- A copy of one provided with the slide handouts
- Make this a part of your practice
- What you get: a letter and then, in a separate mailing, a CD
- The letter has a password to use for the CD and access the files



Roadmap: What to do with 1 hour a week?

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- Pick a day (Sunday am for me)
 - Do 1 blog entry (20 minutes)
 - Turn blog entry into Powerpoint (4-6 slides, 20 minutes)
 - Record video in Zoom of me doing PPT (10 minutes), post in Youtube
 - Create 2nd blog entry about video and linking to it (10 minutes)



The Key?

- It must be consistent
- 1 hour a week, every week (or)
- Take on day and knock out a whole bunch, and just post them each week



TRN
TAX REP NETWORK

Next 4 topics?

The various types of Offers-in-Compromise

Offers-in-Compromise: How the RCP Formula actually works

Offers-in-Compromise and Tax Compliance: What you need to know

Offers-in-Compromise: Lump Sum vs. deferred, and when to pick one over the other

Resources

- www.taxhelpsoftware.com – transcript/csed calculator (Tax Rep member discount)
- Website – email Klemens (klemensraab@gmail.com)
- Zoom – www.zoom.us
- YouTube – set-up personal channel for your videos
- Blogging – www.activerain.com (\$199/yr or \$39.99 a month), other options include Blogger (free), Patch.com (free but not in every area)



Questions?

