

Correspondence Exam Gameplan



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Catharine O'Connor, Esq. Head of Education, Tax Mentor

- ▶ Licensed to practice in Florida since 2012
- ▶ Practiced Tax Controversy from 2012-2020 for one of the largest national tax resolution companies.
- ▶ Resolved millions in tax debts, logged thousands of call hours with IRS collections personnel, and worked with hundreds of clients to resolve their tax controversy issues.
- ▶ Subject matter expert in tax issues facing small businesses, particularly payroll tax debts, with years of practical experience in achieving excellent results for my client.



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Bill Nemeth, EA, MBA

- ▶ Over 30 years in the Industry, including 17+ as an Enrolled Agent (EA)
- ▶ NTPI Fellow, 2013
- ▶ NAEA Education Foundation Trustee; member of the Scholarship Committee.
- ▶ Former Chair & current member of the NAEA Tax Track Committee
- ▶ Currently works with troubled taxpayers (audits and representation).
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- ▶ Initially intended to address a single issue via examinations, the IRS has increased their use of correspondence exams as a response to decreased funding.
- ▶ The pandemic exposed some of the inadequacies in the correspondence exams program when taxpayer correspondence went unanswered and unnecessary Notices of Deficiency were issued.
- ▶ Correspondence exams account for approximately 3 out of every 4 audits the IRS initiates. They can be less intensive than a field audit BUT communication is an ongoing issue for Tax Pros to navigate in assisting their clients.



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Acronym Cheat Sheet

ACRONYM	MEANING	CONTEXT
AUR	Automated Underreporting	Unit within the IRS responsible for exam related to the under reporting of income. Uses computer to compare income reported by other sources to income self reported on returns.
CDP	Collection Due Process	IRS must provide taxpayers an opportunity to dispute the debt prior to enforcement action commencing. A timely filed CDP hearing preserve rights to bring the dispute before the Tax Court. Time Sensitive!
CTC	Child Tax Credit	The Child Tax Credit is an important tax credit that may be worth as much as \$1,000 per qualifying child depending upon income.
EITC	Earned Income Tax Credit	The Earned Income Tax Credit, EITC or EIC, is a benefit for working people with low to moderate income. To qualify, you must meet certain requirements and file a tax return, even if you do not owe any tax or are not required to file. EITC reduces the amount of tax you owe and may give you a refund.
PPL/PPS	Practitioner Priority Line/Practitioner Priority Service	Phone line specifically for use by Tax Pros, can use to complete investigations on multiple taxpayer accounts or be directed to collections or exams.
SNOD	Statutory Notice of Deficiency	Generally, the final notice issued in the examinations process. Lists changes and/or amount of the deficiency (i.e. balance due). NOD letter also carries appeals and tax court rights. Time Sensitive! May also be referred to as a Notice of Deficiency (NOD)
USTCP	United States Tax Court Practitioner	Tax Practitioner authorized to practice before the tax court. i.e. Authorized Attorney or CPA/EA who was passed an exam administered by the Tax Court.



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Handouts

- ▶ Presentation Slides
- ▶ Acronym Cheat Sheet
- ▶ Correspondence Exam Contact Information Sheet



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Field/Office	Correspondence	Automated Underreporter (AUR)	EITC & Other Credits
<ul style="list-style-type: none"> Made up 27% of total examinations in 2020. Occur at taxpayer's home/business and/or IRS office. Designed for more complex or multi issue examinations. IRS Letter 2202 generally indicates start of an examination. 	<ul style="list-style-type: none"> Made up 73% percent of total exams in 2020. Conducted by Mail Correspondence. Supposed to be for a single issue (i.e. Schedule C or Schedule A). IRS Letter 566 generally indicates start of the examination. 	<ul style="list-style-type: none"> Specific correspondence exam that seeks to assess taxpayers based on income information reporting data the IRS received and the taxpayer did not properly report on their return. IRS Notice CP2000 indicates the start of the examination. 	<ul style="list-style-type: none"> Also, occurring via correspondence, the IRS frequently examines/disallows EITC and other "questionable" credits such as CTC and AOTC. IRS Notice CP75 indicate start of EITC examination. IRS Notice CP79 indicates disallowance of a credit.



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Pre-Exam	Active Exam	Closed Exam with Tax Court Right	Closed Exam without Tax Court Rights
<ul style="list-style-type: none"> The IRS has not actually started the examination process. Can frequently see a "referral" to exams on transcript. A 1040X can be filed at this time to "fix" the issues before the IRS does. 	<ul style="list-style-type: none"> Once the IRS has issued the 1st letter the exam has begun. Must respond as dictated by IRS in correspondence & communications A 1040X should NOT be filed. However, it is common practice to use a reference 1040X in communications with exams. 	<ul style="list-style-type: none"> Once the IRS closes the exam a Statutory Notice of Deficiency is issued. Taxpayer has 90 day window to elect tax court, or can continue to work with examination function via administrative appeal. CP3219 series is generally used - will NOT show up on transcripts. 	<ul style="list-style-type: none"> Balance is assessed and tax court rights have passed. Options for disputing the balance: <ul style="list-style-type: none"> Audit Reconsideration OIC Doubt as to Liability Collection Due Process Hearing (limited)



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Let's Talk About Fees

- ▶ Assisting a client with an exam can be relatively straight forward OR could turn into dozens of hours of work.
- ▶ Its can be easy, especially if you have an existing tax prep relationship, to end up doing some (or all) of the work for free.
- ▶ Recommendation is to charge a retainer and hourly fees. This is the fairest for you AND the client depending on the outcome.

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Pre-Exam Gameplan

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Examination Flags on Transcripts

All exam flags except AUR are:

- 420 Examination of tax return
- 424 Examination of tax return

670	Payment	06-23-2006	-\$48.74
420	Examination of tax return	08-10-2006	\$0.00
300	Additional tax assessed by examination	20080608 02-18-2008	\$0.00
n/a	49247-430-00357-8		

AUR Flag is: 922 Review of unreported income

971	Tax period blocked from automated levy program	12-29-2008	\$0.00
922	Review of unreported income	03-08-2010	\$0.00
971	Pending installment agreement	04-29-2009	\$0.00
971	Account match for federal levy payment program	11-30-2009	\$0.00



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Pre-Exam

- ▶ This refers to any period prior to that 1st letter being issued, whether flagged or not.
- ▶ Keep in mind that not every tax period flagged for exam results in an examination and the issuing of a Statutory Notice of Deficiency.
 - Also, not every tax period will show a flag prior to an exam beginning.



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Step 1. Review

- ▶ If you prepared the return in question pull it for review.
 - ❑ Additionally, make sure you have wage & income and return transcripts to assist in your evaluation.
- ▶ Start reviewing and see if anything pops out at you as needing correction.
 - ❑ AUR issues are generally easy to spot, this is why it is important to have the wage & income.
 - ❑ Additionally, Schedules A & C are commonly picked for correspondence examinations.

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Step 2. Contact the IRS

- ▶ Recommend contacting Practitioner Priority Service (PPS) to inquire if the IRS has issued the initial exams letter.
 - ❑ This is important in determining whether the tax period is still in pre-exam status or has moved into active exam.
- ▶ If the initial letter has been issued (i.e. Letter 566 or CP2000) request a copy be mailed out to you or the taxpayer.
- ▶ NOTE: if you have a 2848/2281 on file you can elect to be CC'd on notices, possibly allowing you to skip this step.

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Step 3. Contact the Taxpayer

- ▶ Advise that the IRS MAY be initiating review of their tax return.
- ▶ If your review of the return indicated an obvious correction of the return should be made; propose engagement, fees, and begin preparing a 1040X.
- ▶ If the review was inconclusive or would require more work; discuss with client and see if they would like to engage you or take a wait & see approach.

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Step 4. Responding

- ▶ This is the time & place you would file a 1040X if appropriate & client engages, preferably e-file if available.
 - Goal is to save your client the Substantial Understatement of Tax Penalty aka Accuracy Penalty.
- ▶ If you can show that the taxpayer self corrected the issue prior to the IRS initiating the exam (i.e. issuing the 1st letter) you should contest any later accuracy related penalties since there was not, in fact, an understatement of tax.

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Active Exam Gameplan

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Active Exam

- ▶ Once the exam has started (i.e. 1st letter issued) you have to proceed as indicated in the correspondence.
- ▶ Once the audit is active a 1040X should generally only be used as a reference when making a case for what you feel the taxpayer is liable for.
 - i.e. you went through their books and discovered they overstated some expenses on the schedule C, this might be easily represented on a 1040X but you would still need to meet any document requests made in the letter 566.

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Step 1. Get the Notice

- ▶ Once you know an exam is active you need the notice to solidify what is at issue and what work is needed.
 - ❑ Also need to know which correspondence campus is involved.
- ▶ Get from the client if they have available.
 - ❑ If they have an online account, ask them to log in and retrieve (if available) to save time.
- ▶ Contact the IRS to Request.

Step 2. Review the Initial Notice

- ▶ What is the scope of the IRS exam?
 - ❑ Letter 566 will list what on the return is being examined (i.e. Schedule C mileage)
 - ❑ CP2000 will list what income the IRS believes is unreported.
- ▶ What documents are being requested?
 - ❑ Letter 566 will also usually include a list of documents that are requested and/or acceptable.

Step 3. Analysis

- ▶ Start with a copy of the original return AND request documents from taxpayer necessary to establish where we stand.
- ▶ What does your analysis reveal?
 - ❑ Is the initial return correct and can it be supported?
 - ❑ Do some adjustments need to be made?
 - ❑ Is there a larger issue with the portion of the return under exams?
- ▶ Discuss with client to learn any additional relevant data or insights.

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Sample Correspondence Exam (LTR 566)

Dear Taxpayer:

We are examining your federal income tax return. We need you to provide us with additional information to substantiate the items checked below that you claimed on your return.

- | | | |
|---|---|---|
| <input type="checkbox"/> Filing Status and Exemptions | <input type="checkbox"/> Schedule A - Itemized Deduction | <input type="checkbox"/> Tax Credits |
| <input type="checkbox"/> Head of Household | <input type="checkbox"/> Medical & Dental Expense | <input type="checkbox"/> Foreign Tax Credit |
| <input type="checkbox"/> Exemptions | <input type="checkbox"/> Interest You Paid | <input type="checkbox"/> Earned Income Credit |
| <input type="checkbox"/> Adjustments to Income | <input type="checkbox"/> Gifts to Charity | <input type="checkbox"/> Child Care Credit |
| <input type="checkbox"/> Alimony Paid | <input type="checkbox"/> Casualty & Theft Losses | <input type="checkbox"/> Education Credit |
| <input type="checkbox"/> Moving Expense | <input type="checkbox"/> Unreimbursed Employee Expense | <input type="checkbox"/> Adoption Credit |
| <input type="checkbox"/> | <input type="checkbox"/> Other Miscellaneous Deductions | <input type="checkbox"/> Credit for the Elderly or Disabled |
| <input type="checkbox"/> | <input type="checkbox"/> Schedule C - Gross Receipts | <input type="checkbox"/> |
| | <input type="checkbox"/> Schedule C - Expenses | |
| | <input checked="" type="checkbox"/> Schedule C - Car & Truck Expenses | |

Please see the enclosed explanation of the documentation you need to provide, and send it to us within 30 days from the date of this letter. Send copies of your supporting records and/or information to the contact person whose name and address are shown in the letter heading. This information could include receipts, canceled checks, or other explanatory material. It is important that we receive all requested information and it is readable. Please also complete and return any enclosed questionnaire(s). We have enclosed an envelope for your use.

Possible Documents to Review

- Original Schedule C
- Mileage Logs
- Receipts
- Maintenance Records
- Any other items specified in Letter 566.

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Explanation of Changes to your 2017 Form 1040

This section tells you specifically what income information the IRS received about you from other (including employers, banks, mortgage holders, etc.). This information does not match the information you reported in your tax return.

Use the table to compare the data the IRS received from others to the information you reported on your tax return to understand where the difference(s) occurred. To assist you in reviewing your income amounts, the table may include both reported and unreported amounts.

Sample AUR Exam (CP2000 Page 2)


Sale of Property	Received from:	Address	Account Information	Shown on Return	Reported to the IRS by Others	Difference
	USA Bank, NA	123 Main St. Anytown, USA	XXX-XXX-XXX-XXXX SSN: XXX-XX-XXXX 1099-S	\$0	\$599,990	\$599,990


Getting Started

- Original 1040
- Data on property:
 - Date of Purchase
 - Purchase Price
 - Date of Sale
- Anything else relevant that comes up in conversation with the client.

Pull up Wage & Income Transcript and find 1099-S that matches.

Review with client and determine detail, such as whether it was a primary residence.







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Step 4. The Response

- ▶ Send to unit listed on the IRS notice.
 - ❑ IRS is piloting online portals for submission to bypass the correspondence backlogs.
- ▶ Keep the response package organized; use cover pages, spreadsheets, and explanations as needed.
 - ❑ 1040X (or a draft schedule or form) is great as an exhibit but should not be the sole response in most instances.
- ▶ This is also the opportunity to request waiver of penalties if there is going to be a tax liability. See IRM 20.1.5.7





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Step 5. Follow Up

- ▶ Either ensure you have a 2848 on file with election for copies of notices and/or make sure your taxpayer knows to bring you IRS notices IMMEDIATELY.
- ▶ Follow up with a phone call at the 45-60 day mark.
 - ❑ DO NOT call PPS, call the exam unit on the initial notice.
 - ❑ Request an expected completion date.
- ▶ Correspondence Exams can be frustrating since there is an impersonal and faceless quality to it.

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Closed with Tax Court Rights Gameplan

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Closed with Tax Court Rights

- ▶ Upon the closing of an exam, with or without taxpayer participation, the IRS issues the Statutory Notice of Deficiency (SNOD). The SNOD states the date the taxpayer must petition tax court within 90 day (date will be on the letter).
 - ❑ During the COVID pandemic the correspondence units (including AUR) have frequently issued this without responding to taxpayer responses.
- ▶ From here the taxpayer/tax pro has the following options:
 - ❑ Respond/Appeal
 - ❑ File a Petition in Tax Court

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Step 1. Which Option

- ▶ Respond/Appeal – Responding to the SNOD, this is still within the IRS Administrative examinations department.
- ▶ Elect Tax Court – Depending on your certification this may involve directing your Taxpayer to file Pro Se or referring to another Tax Pro.
- ▶ Combo Option – Appeal but file a Tax Court petition before the 90 days is up if a satisfactory (or any response) is not received.

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Option 1. Respond/Appeal

- ▶ SNOD will list appeal options and where to send your appeal.
 - Use Fax # if available.
- ▶ The Package
 - If the IRS responded during the active exams phase review correspondence and strategize what to address and how.
 - Ensure you have a concise cover letter stating what you disagree with and what you are requesting. Cite IRM, IRC, Pubs, and Tax Court Cases as appropriate.
- ▶ **IMPORTANT:** Date to petition the Tax Court is NOT extended just because the IRS does not timely respond.

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Option 2. Tax Court

- ▶ A Tax Court petition freezes the assessment until a final decision is made.
 - NOTE: during COVID there have been some assessments even when tax court petitions have been filed (supposed to stop that process) due to heavy amounts of petitions.
- ▶ IRS Appeals has a major role to play in the Tax Court process and are tasked with resolving petitions in lieu of them proceeding to tax court where possible.
 - Practitioners not authorized to practice in Tax Court CAN work with IRS appeals prior to calendar call.

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Option 3. Combo

- ▶ Appeal but file a Tax Court petition before the 90 days is up if a satisfactory (or any response) is not received.
 - Upside is if appeals comes to a favorable decision after submission the Tax Court petition can be withdrawn.
 - Downside is that if appeals comes (before or after filing of petition) to a decision and that decision is not favorable the issue moves onto IRS counsel.
- ▶ Strategy matters here! Do you need the threat of Tax Court as a bargaining position? OR Is the matter straight forward?

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Assisting Your Client with a Pro Se Tax Court Petition

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Who Can Assist a Taxpayer in Preparing a Petition ?

- ▶ The answer seems to depend on whom you ask. **Answers range from no one (Taxpayer is Pro Se) to anyone to only a lawyer or USTCP EA or USTCP CPA.**
- ▶ According to Tax Court Rule 33 the signer of the petition has read the petition, understands it and believes it is well-grounded in fact.
 - **Tax Court Rule 33 does NOT specify the preparer of the petition has to sign.**
- ▶ Since all the information necessary to file a Tax Court Petition is available with the exception of two questions, some will liken it to assisting a taxpayer to prepare a petition much like tax professionals prepare a tax return and transcribe the taxpayer's information to the form.

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Best Practices

- ▶ Advise taxpayers to have an attorney or USTCP Circular 230 assist or coach them in the preparation of their Pro Se Tax Court Petition.
- ▶ Taxpayer can Consider LITC (Low Income Tax Clinic) if they qualify.
- ▶ Advise taxpayers to have a Circular 230 practitioner who is familiar with tax court proceeding represent them.
- ▶ Have an expert ready to step in when necessary.

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SNOD Required to Petition Tax Court

- ▶ Taxpayer **must** receive a **Statutory Notice of Deficiency** BEFORE a petition to Tax Court can be filed.
- ▶ SNOD is often called the **90-day letter** since the taxpayer generally has 90 days to respond.

Department of the Treasury
Internal Revenue Service
PO BOX 621505
ATLANTA GA 30362-1505

000119.146999.480312.2325 2 BP 0.650 117

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Notice CP3219A
Tax year 2016
Notice date May 13, 2019
Social Security number XXX-XX-7186
AUR control number 70068-0100
To contact us Phone 1-800-829-8310
Fax 1-877-477-0967
Last date to petition August 12, 2019
Tax Court
Page 1 of 12

25641718620163*

Notice of Deficiency Proposed increase in tax and notice of your right to challenge

We have determined there is a deficiency (increase) in your 2016 income tax based on information we received from third parties (such as employers or financial institutions) that doesn't match the information you reported on your tax return. See below for an explanation of how this increase was calculated. This letter is your NOTICE OF DEFICIENCY, as required by law.

If you disagree
You have the right to challenge this determination in U.S. Tax Court. If you choose to do so, you must file your petition with the Tax Court by August 12, 2019. This date can't be extended. See below for details about how and where to file a petition.

Summary of proposed changes

Increase in tax (deficiency)	\$9,364
Substantial tax understatement penalty	\$1,873

If you want to resolve this matter with the IRS
You may be able to resolve this matter without going to the U.S. Tax Court if you contact us directly. See the "You may be able to resolve your dispute with the IRS" section below.

If you want assistance

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OVERVIEW

- ▶ Taxpayer files Tax Court Petition Pro Se.
- ▶ Enrolled Agent or CPA under POA can represent the taxpayer at Appeals and can negotiate with Chief Counsel Attorneys.
- ▶ Appeals has 4 months to settle the case.
- ▶ It is almost automatic that Appeals will abate Accuracy-Related Penalties - § 6662
- ▶ Over 90% of Tax Court Cases are **SETTLED prior to Tax Court.**

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Guide, Rules, & Forms
Self-Represented (Pro Se) Petitioner Guide

APPENDIX I

FORMS


The following forms are listed in this appendix:

- Form 1. Petition (Sample Format)¹
- Form 2. Petition (Simplified Form)²
- Form 3. Petition for Administrative Costs (Sec.7430(f)(2))
- Form 4. Statement of Taxpayer Identification Number
- Form 5. Request for Place of Trial³
- Form 6. Ownership Disclosure Statement⁴
- Form 7. Entry of Appearance
- Form 8. Substitution of Counsel
- Form 9. Certificate of Service
- Form 10. Notice of Change of Address⁵
- Form 11. Notice of Election To Intervene
- Form 12. Notice of Election To Participate
- Form 13. Notice of Intervention⁶
- Form 14. Subpoena⁷
- Form 15. Application for Order To Take Deposition To Perpetuate Evidence⁸
- Form 16. Certificate on Return
- Form 17. Notice of Appeal to Court of Appeals
- Form 18. Unsworn Declaration Under Penalty of Perjury⁹

All the forms are available on the Court's Web site at www.ustaxcourt.gov and upon request from the Clerk of the Court. The forms also may be manually prepared, except that the subpoena (Form 14) must be obtained either from the Clerk of the Court or from the Court's Web site. When preparing papers for filing with the Court, attention should be given to the applicable requirements of Rule 23 in regard to form, size, type, and number of copies, as well as to such other Rules of the Court as may apply to the particular item.

▶ https://www.ustaxcourt.gov/resources/dawson/DAWSON_Petitioner_Training_Guide.pdf



United States Tax Court



Page 36
has link to
Sample
Forms

DAWSON
Case Management System

United States Tax Court
Washington, DC
December 27, 2021

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Simplified vs Regular Procedure

Simplified Procedure

- ▶ Applies to balances under \$50,000
 - Could also be called Small Claims.
- ▶ Less formal & a more relaxed process.
- ▶ No right to appeal.

Regular Procedure

- ▶ Applies to balances over \$50,000 and/or involving multiple tax years.
- ▶ More formal with less venue opportunities.
- ▶ Right to appeal to US Court of Appeal.

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Preparing a Petition

- ▶ Taxpayer(s) Name and Address
- ▶ Small or Regular Case
- ▶ Answer 2 Questions
 - ❑ Why you Disagree
 - ❑ What you Rely on
- ▶ Information from the Notice of Deficiency
 - ❑ Date of Notice of Deficiency
 - ❑ Office issuing the Notice of Deficiency
 - ❑ Tax Years
 - ❑ Requested Place of Trial
- ▶ \$60 fee

Forms - https://www.ustaxcourt.gov/forms/Petition_Kit.pdf



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Tax Court Petition – 2 Questions

5. Explain why you disagree with the IRS determination in this case (please list each point separately):

CP2000 NOTICE - TAXPAYERS AGREE WITH THE ADDITIONAL TAX AND HAVE PAID THE TAX IN FULL.

TAXPAYERS ARE REQUESTING ABATEMENT OF THE \$1,873 ACCURACY-RELATED PENALTY.

T.C. FORM 2 (REV. 11/18)

6. State the facts upon which you rely (please list each point separately):

TAXPAYER IS SELF-EMPLOYED & HAS BEEN PREPARING HIS OWN RETURN FOR MANY YEARS. HOWEVER,

TAXPAYER WANTED TO MAKE SURE HIS 2016 RETURN WAS PREPARED CORRECTLY AND ENGAGED A CPA

TO PREPARE 2016 - THE CPA FAILED TO ENTER ALL THE INCOME DOCUMENTS PROVIDED.

THE IRS COMPUTER-MATCHING PROGRAM GENERATED THE CP2000 NOTICE.

TAXPAYERS EXERCISED DUE DILIGENCE IN SELECTING A LICENSED TAX PROFESSIONAL TO PREPARE

THEIR 2016 RETURN. THEY SHOULD NOT BE PENALIZED FOR ERRORS MADE BY THE TAX PROFESSIONAL.



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Takeaways

- ▶ Tax Court is a valuable and time sensitive tool to protect taxpayer rights.
- ▶ Just because you may not be a USTCP does not mean this avenue should be closed to your client.
- ▶ Assisting a Taxpayer Pro Se should not be taken lightly; do not step outside your comfort zone, be clear with taxpayer about your limitations, and make sure there is an alternative representative available.

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Closed without Tax Court Rights Gameplan

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Closed With No Tax Court Rights

- ▶ SNOD has been issued, tax court rights have expired, and the debt is assessed.
 - ❑ NOTE: during COVID there have been some assessments even when tax court petitions have been filed (supposed to stop assessment) due to heavy amounts of petitions.
- ▶ Options to Dispute:
 - ❑ Reconsideration
 - ❑ OIC Doubt as to Liability
 - ❑ Collection Due Process (CDP) Hearing

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Step 1. ID the Exam Type

- ▶ With closed exams you are already behind the ball; you usually have limited information and will need to get caught up to form a strategy.
- ▶ If you know how to read transcripts you can generally narrow down the issue and identify the type of exam. This will help you plot out effective next steps.

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Recognizing a Field or Correspondence Exam

There is no way to tell from the transcripts whether an examination occurred via a field or correspondence exam. Would need to contact IRS and/or review notices.

2016					
	846	Refund issued			\$3,613
	150	Tax return filed			\$548
	806	W-2 or 1099 withholding	4/15/2017		(\$4,161)
	420	Examination of tax return	12/15/2017		\$0
	560	IRS can assess tax until 09-12-	4/22/2019		\$0
	520	Bankruptcy or other legal action filed	6/17/2019		\$0
	300	Additional tax assessed by examination 00-00-0000	7/8/2019		\$0
	706	Credit transferred in from 1040 202012	4/15/2021		(\$189)
	521	Removed bankruptcy or other legal action	5/27/2021		\$0
	240	Miscellaneous penalty IRC 6662(c), (d), (e), (f), (g), or (h) Accuracy-Related Penalty 06-21-2031	6/21/2021		\$2,903
	300	Additional tax assessed by examination 06-21-2031	6/21/2021		\$14,517
	336	Interest charged for late payment		1	\$3,416
	421	Closed examination of tax return		1	\$0
	971	Notice issued CP 0022		1	\$0

Flag - no way to know if/when letter is issued that flips from pre-exam to active exam. TC 420 or 424.

Generally, exam is closed and tax court rights have expired.

Most exam letters **DO NOT** show up on transcripts. For those that do the dates are not always helpful.



Recognizing an Automated Underreporter (AUR) Exam

2018					
	846	Refund issued	3/13/2019		\$6,724
	150	Tax return filed	3/25/2019		\$41,576
	806	W-2 or 1099 withholding	4/15/2019		(\$48,300)
	922	Review of unreported income	10/3/2021		\$0
	196	Interest charged for late payment	10/25/2021		\$3,815
	240	Miscellaneous penalty IRC 6662(c), (d), (e), (f), (g), or (h) Accuracy-Related Penalty 10-25-2031	10/25/2021		\$5,914
	290	Additional tax assessed 10-25-2031	10/25/2021		\$29,569
	971	Notice issued CP 0022	10/25/2021		\$0
	960	Appointed representative	1/25/2022		\$0
	971	Tax period blocked from automated levy program	2/14/2022		\$0

Flag - no way to know if/when letter is issued that flips from pre-exam to active exam. 922 Indicates AUR.

Most exam letters **DO NOT** show up on transcripts. For those that do the dates are not always helpful.



Recognizing an Earned Income Tax Credit (EITC) Exam

2016				
420	Examination of tax return		4/2017	\$0
846	Refund issued		9/2017	\$1,337
150	Tax return filed		4/10/2017	\$0
810	Refund freeze		4/10/2017	\$0
811	Removed refund freeze		4/10/2017	\$0
971	Notice issued CP 0075		4/10/2017	\$0
765	Reduced or removed earned income credit	Zero or small amounts Under TC 300 "Additional Tax Assessed by Examination" is usually a good indicator of an EITC (or Other Credits) Exam.	4/15/2017	\$3,430
766	Credit to your account		4/15/2017	(\$1,000)
766	Credit to your account		4/15/2017	(\$839)
767	Reduced or removed credit to your account		4/15/2017	\$839
767	Reduced or removed credit to your account		4/15/2017	\$1,000
768	Earned income credit		4/15/2017	(\$3,430)
806	W-2 or 1099 withholding		4/15/2017	(\$337)
240	Miscellaneous penalty 12-04-2027		12/4/2017	\$200
300	Additional tax assessed by examination 00-00-0000		12/4/2017	\$0
336	Interest charged for late payment		12/4/2017	\$31
421	Closed examination of tax return		12/4/2017	\$0

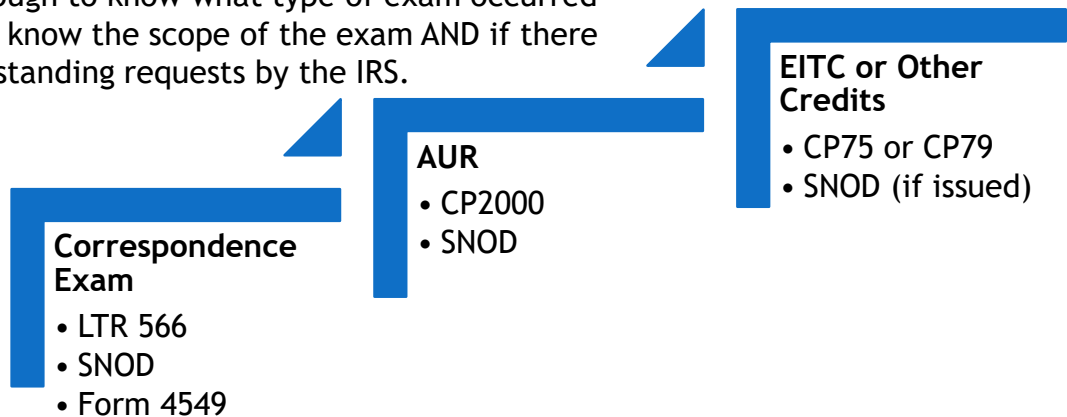
Flag - no way to know if/when letter is issued that flips from pre-exam to active exam. TC 420 or 424.

Most exam letters **DO NOT** show up on transcripts. For those that do the dates are not always helpful.



Step 2. What Notices Do You Need?

Not just enough to know what type of exam occurred but need to know the scope of the exam AND if there are any outstanding requests by the IRS.



Step 3. Obtaining Notices

- ▶ From the client...not likely.
 - ▶ Call the IRS to request the notice(s) be mailed out to the taxpayer (usually a couple of weeks).
 - ❑ Call Practitioner Priority Service (PPS) at 1-866-860-4259
 - ❑ Correspondence- 1-866-897-0177
 - ❑ AUR – 1-800-829-8310
 - ❑ EITC – 1-866-897-0161
- NOTE: IRS phone numbers subject to change.
- ▶ If the notices have been archived a Freedom of Information Act (FOIA) request will be your best option.

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Step 4. Analysis

- ▶ NEED: Notice(s), Transcripts, and Copy of Original Return.
 - ❑ Return transcript can sometimes work but not ideal or always available.
- ▶ What did the IRS change and what do you need (if anything) from the client to begin investigating their position?
- ▶ Examine data provided by client, determine what (if anything) you can dispute from the original assessment.
 - ❑ Look at IRM, IRC, Tax Publications, and Audit Guides as applicable.

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Step 5. The Response

- ▶ Cover letter explicitly stating what you are asking for, i.e. adjustments to the prior exam assessment.
- ▶ Include a copy of the IRS notice listing the basis of the change/assessment (i.e. CP2000, 4549, etc.).
- ▶ Address ALL items you are disputing AND provide any documents the IRS previously requested related to that items.
- ▶ Keep documents (copies not originals) neat and easy to read; notate where necessary.
- ▶ Optional: Reference 1040X and/or other IRS schedules and forms

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Reconsideration

- ▶ Package needs to be sent to the exam unit that initiated the exam.
- ▶ Options
 - Mail with tracking
 - Make sure you have a complete copy of the package in your files.
 - Fax
 - Not always available, check notice(s) to see if a fax number is present.
 - May be better to mail if the reconsideration package is large.
 - NEW – online digital mail room
 - <https://www.irs.gov/examreply>

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OIC Doubt as to Liability

- ▶ Complete Form 656-L
 - ❑ Need to offer at LEAST \$1
- ▶ Attached reconsideration package and reference in section 5 of 656-L (explanation).
- ▶ Mail to:

Brookhaven IRS - COIC Unit
PO Box 9008
Stop 681-D
Holtsville, NY 11742-9008

Form 656-L (December 2020)		Department of the Treasury - Internal Revenue Service Offer in Compromise (Doubt as to Liability)	Page 6 OMB Number 1545-1099
<p>To: Commissioner of Internal Revenue Service In the following agreement, the pronoun "we" may be assumed in place of "I" when there are joint liabilities and both parties are signing this agreement. I submit this offer to compromise the tax liabilities plus any interest, penalties, additions to tax, and additional amounts required by law for the type and period(s) marked below in section 4 or section 5.</p>			IRS Received Date
Section 4 Individual Information (Form 1040 filers)			
Your First Name, Middle Initial, Last Name		Social Security Number (SSN)	
If a Joint Offer: Spouse's First Name, Middle Initial, Last Name		Social Security Number (SSN)	
Your Physical Home Address (Street, City, State, ZIP Code)		Your Mailing Address (if different from your Physical Home Address or Post Office Box Number)	
Is this a new address?		If yes, would you like us to update our records to this address?	
<input type="checkbox"/> Yes <input type="checkbox"/> No		<input type="checkbox"/> Yes <input type="checkbox"/> No	
Employer Identification Number (For self-employed individuals only)			
Individual Tax Periods			
<input type="checkbox"/> 1040 U.S. Individual Income Tax Return (List all year(s); for example, 2018, 2019, etc.)			
<input type="checkbox"/> 941 Employer's Quarterly Federal Tax Return (List all quarterly periods); for example, 03/31/2019, 06/30/2019, 09/30/2019, etc.]			
<input type="checkbox"/> 940 Employer's Annual Federal Unemployment (FUTA) Tax Return (List all year(s); for example, 2018, 2019, etc.)			
<input type="checkbox"/> Trust Fund Recovery Penalty as a responsible person of (enter business name) for failure to pay withholding and Federal Insurance Contributions Act taxes (Social Security taxes), for period(s) ending (List all quarterly periods); for example, 03/31/2019, 06/30/2019, etc.]			
<input type="checkbox"/> Other Federal Tax(es) (Specify type(s) and period(s))			

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Collection Due Process or Equivalent Hearing

- ▶ Check transcripts for Collection Due Process or Equivalent Hearing rights.
- ▶ Fill out form 12153
- ▶ Attached reconsideration package.
- ▶ Mail to assigned collections department (see Final Notice of Intent to Levy).
- ▶ Final Notice
 - ❑ CDP - Within 30 days after the date the notice of intent to levy is issued (IRM 5.1.9.3.1(3))
 - ❑ NFTL - Within 1 year after the date the notice of intent to levy is issued (IRM 5.9.3.1(3))
- ▶ NFTL
 - ❑ CDP - Within 30 days, starting 5 business days after filing NFTL (IRM 5.1.9.3.1(2))
 - ❑ Equivalency - Within 1 year, starting 5 business days after filing NFTL (IRM 5.9.3.1(2))

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Resources

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Research Sources

- ▶ Audit Technique Guides
 - ❑ <https://www.irs.gov/businesses/small-businesses-self-employed/audit-techniques-guides-atgs>
- ▶ Tax Publications
 - ❑ <https://www.irs.gov/publications>
- ▶ Tax Court
 - ❑ <https://www.ustaxcourt.gov/>
- ▶ Tax Topics
 - ❑ <https://www.irs.gov/taxtopics>
- ▶ Google

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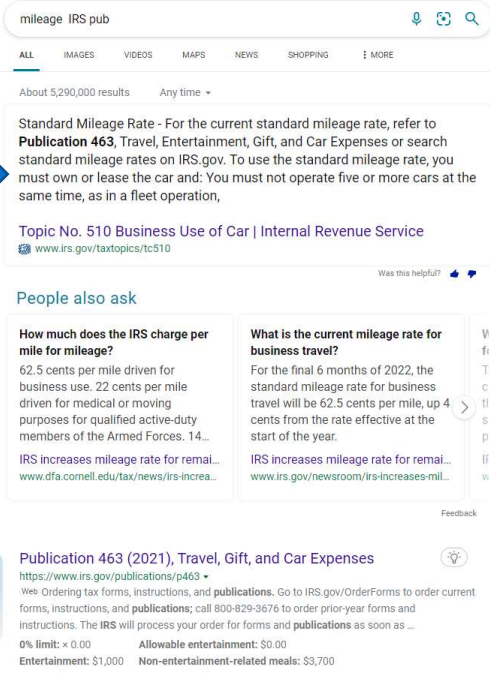
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Search Terms

▶ 1 or 2 Key terms plus a Resource (Tax Court, IRM, IRS Pub, etc.)

- i.e. "mileage IRS pub"



The screenshot shows a Google search for "mileage IRS pub". The search results include a snippet for "Standard Mileage Rate" and a link to "Publication 463 (2021), Travel, Gift, and Car Expenses". Below the main results, there are sections for "People also ask" with questions like "How much does the IRS charge per mile for mileage?" and "What is the current mileage rate for business travel?".

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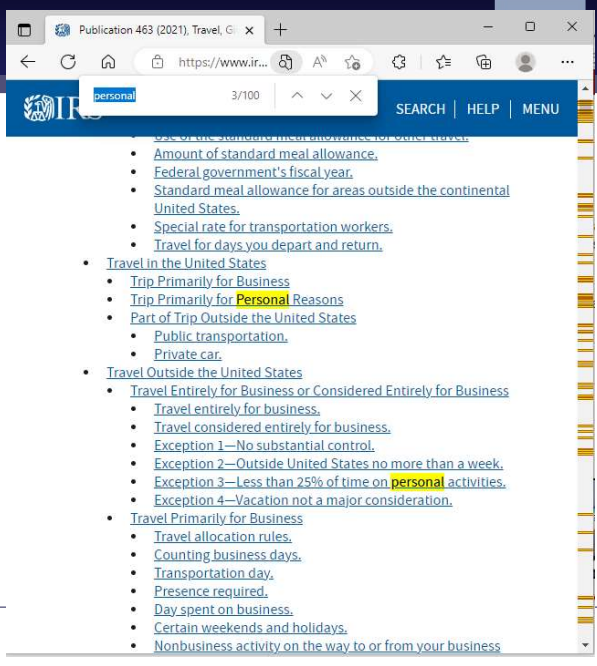
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Searching Webpages

▶ Ctrl F is your friend for efficiently looking through search results.

- Open the page that looks promising, press ctrl F and enter a key word to locate potentially relevant sections.



The screenshot shows a web browser window with the URL "https://www.irs.gov/publications/p463". The search bar contains the word "personal". The search results are a list of links related to travel and business expenses, such as "Amount of standard meal allowance", "Federal government's fiscal year", and "Travel in the United States".

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Conclusion

- ▶ Assisting taxpayers with Correspondence Exams, at any stage, is an important part of effective representation.
- ▶ Have a gameplan, follow the steps, and don't get ahead of yourself.
- ▶ Equally (or more) important, make sure you have an engagement that properly reflects the work involved and the fees involved.

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Questions?

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