

*AN INVITATION TO AN IRS
OFFICE:
AN IRS OFFICE AUDIT*

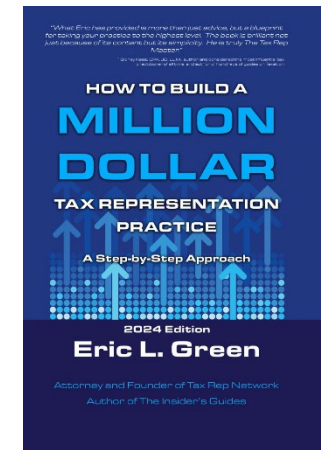
Jo-Ann Weiner

Eric L. Green

J.L. WEINER
&
ASSOCIATES, LLC

Eric Green, Esq.

- ▶ Managing partner in Green & Sklarz LLC, a boutique tax firm with offices in Connecticut and New York.
- ▶ Focus is civil and criminal taxpayer representation.
- ▶ Is a contributing columnist for Bloomberg Tax
- ▶ Attorney Green is the past Chair of the Executive Committee of the Connecticut Bar Association's Tax Section.
- ▶ Eric is a Fellow of the American College of Tax Counsel ("ACTC").
- ▶ Founder of Tax Rep Network which trains attorneys and accountants to handle IRS Rep cases
- ▶ Author of How to Build a \$ Million IRS Rep Practice and the Insider's Guides to IRS Representation series.



Jo-Ann Weiner, EA

- ▶ Jo-Ann Weiner is an expert in the forensic fraud and tax examinations field as a Certified Fraud Examiner an Enrolled Agent and a Certified Tax Resolution Specialist.
- ▶ In 2011 after working for the US Internal Revenue Service as a Revenue Agent for 35 years, where she audited federal tax returns, worked as a special enforcement agent on civil cases, criminal cases, and grand jury cases, Ms. Weiner worked as an outside contractor teaching Corporate Taxation to IRS Revenue Agents.
- ▶ Ms. Weiner formed her private practice of J.L. Weiner & Associates in 2013 where she routinely represents clients who are being audited by the federal or state governments or are being investigated on federal criminal tax charges.



Housekeeping



- ▶ 8 attendance checks
- ▶ Must do at least 6 for ce/cpe
- ▶ Any issues with pop-ups, just comment in the chat so we can prove your with us
- ▶ Link will be sent later
- ▶ Issues? Email us at team@taxrepilc.com

Thank you for helping us!

Our primary goal is to raise money for women on financial aid to stay in college and graduate. We are striving to raise \$16,000 this year - \$8,000 each for two women. We are not there yet- with your help we will get there. It is heartbreaking and heartwarming to listen to these women when they thank us and tell us our help will mean they can eat more food because they are getting help with their tuition and books. They are asked to write a difficult essay and read it at our Panel of Power Luncheon. This year the fundraising luncheon is October 17th.

<https://www.womenwordsandwisdom.org/>



W O M E N , W O R D S ,
and wisdom

Few Clients are Cheered by the arrival of an IRS Exam notice

- Fear of the unknown
- Critical to explain the process
- Key is preparation





Department of Treasury
Internal Revenue Service

Three types of audits

- Field
- Office
- Correspondence

RETURN SELECTION PROCESS



- Service Centers use formulas to select returns for audit – DIF, NRP
- Selected returns are sent to field groups for assignment
- Tax Auditors/Tax Examiners conduct audits
- Appointments are scheduled

BECOME FAMILIAR WITH THE AUDIT PROCESS AND PROCEDURE

- IRM PART 4 EXAMINING PROCESS
- IRM Part 1.4.42 SB/SE FIELD AND OFFICE EXAMINATIONS

ROLE AND RESPONSIBILITY OF THE REPRESENTATIVE



- Power of Attorney
- Transcripts
- Review Returns
- Analyze Records
- Reconcile Income
- Research Issues
- Facts, Law, Argument
- Per Return, Allowed, Adjustment

STATEMENT OF ANNUAL ESTIMATED PERSONAL AND FAMILY EXPENSES



- CAPTURES PERSONAL LIVING EXPENSES
- TAXPAYER TO PROVIDE INFORMATION REGARDING EXPENSES
- BLS BUREAU OF LABOR STATISTICS CAN BE ACCESSED AT www.bls.gov



TAXPAYER BILL OF RIGHTS

Taxpayer Bill of Rights

1. The Right to Be Informed
2. The Right to Quality Service
3. The Right to Pay No More than the Correct Amount of Tax
4. The Right to Challenge the IRS's Position and Be Heard
5. The Right to Appeal an IRS Decision in an Independent Forum
6. The Right to Finality
7. The Right to Privacy
8. The Right to Confidentiality
9. The Right to Retain Representation
10. The Right to a Fair and Just Tax System

SPECIFIC ITEMS VS. INDIRECT METHODS

- SPECIFIC ITEMS AND DIRECT EVIDENCE IS PREFERRED OVER INDIRECT METHODS
- INDIRECT METHODS REQUIRE A LIKELY SOURCE OF CASH
- SPECIFIC ITEMS ARE NOT EASY TO IDENTIFY; FOR EXAMPLE, IN A GROCERY STORE

IN DEPTH EXAM OF INCOME

RECOMMENDED WHEN:

- INCOME DOES NOT RECONCILE TO BOOKS/RECORDS
- UNEXPLAINED DEPOSITS
- LACK OF INTERNAL CONTROL
- INDICATION OF UNREPORTED INCOME (VS. A FIRM INDICATION OF UNREPORTED INCOME)
- NOTE AN IN DEPTH EXAM INCLUDES THE USE OF 3RD PARTIES (T/P SHOULD BE GIVEN THE CHANCE TO VERIFY FIRST) another discussion

TYPES OF INDIRECT METHODS

- SOURCE AND APPLICATION OF FUNDS METHODS
- BANK DEPOSITS AND CASH EXPENDITURES METHODS
- MARKUP METHOD
- UNIT AND VOLUME METHOD
- NET WORTH METHOD



SELECT PROPER METHOD TO USE

- WHEN INCOME IS NOT DEPOSITED, A BANK DEPOSIT ANALYSIS IS NOT APPROPRIATE
- WHEN CASH OUTLAYS CANNOT BE DETERMINED SOURCE AND APPLICATION OF FUNDS MAY NOT BE THE PREFERRED METHOD

IRS Focus on Cash Businesses



TY 2021 Tax Gap Projection

- Gross Tax Gap: \$688B
- Voluntary Compliance Rate: 84.9%
- Enforced & Other Late Payments: \$63B
- Net Tax Gap: \$625B
- Net Compliance Rate: 86.3%

Congressional Research Service

“The Federal Tax Gap: Overview, Analysis, and Policy Options, November 30, 2023”

- In some circumstances, audits may discourage voluntary compliance.
- For example, in the year after a random audit, self-employed taxpayers who were found to owe additional tax reported roughly 64% more income,
- yet those who the audit cleared reported 15% less. That decline deepened to 21% three years after the audit



IRS Focus on Cash Businesses

3 Ways to misappropriate cash from a business:

1. Skimming it from receipts
2. Cash or goods can be stolen and used later for resale
3. Fraudulent disbursements



Use of Minimum Income Probes



- Called a “Cash-T Analysis”
- Examiner will review the expenditures
- Compare them to reported income
- Shortfall, if unexplained, is considered unreported income

T-Account Analysis by Examiners

T-Account	
CASH RECEIVED	CASH EXPENDED
Gross Receipts (per Return)	Business Expenses (less depr.)
Gross Rents	Rental Expenses (less depr.)
Wages/Miscellaneous Income	Personal Living Expenses
Interest/Dividend Income	Purchase of Assets
Cash on Hand (at beginning)	Cash on Hand (at year end)
Cash in Bank (at beginning)	Cash in Bank (at year end)
Loans Received	Loan Payments
Nontaxable Income	
Accounts Receivable (at beginning)	Accounts Receivable (at year end)
Accounts Payable (at year end)	Accounts Payable (at beginning)
Total Cash Received	Total Cash Expended

Therefore: Total Cash Expended less Total Cash Received = Unidentified Income.

Bank Deposits as Unreported Income

- Bank deposits are prima facie evidence of unreported income — **Tokarski v. Commissioner**
- Burden to show the IRS determination is wrong lies with the taxpayer — **Estate of Mason v. Commissioner**
- IRS is required to consider non-taxable sources of income or non-deductible expenses — **DiLeo v. Commissioner**
- IRS is required to follow all leads reasonably susceptible of being followed that income is from non-taxable sources — **Holland v. United States**

SOURCE AND APPLICATION OF FUNDS METHOD

• WAGES	10,000	WITHHOLDING	1,000
• INTEREST INCOME	100	REAL ESTATE TAXES	9,000
• BEGINNING BANK BALANCE	400	INTEREST EXPENSE	20,000
• SCHEDULE C GROSS RECEIPTS	20,000	SCHEDULE C EXPENSE	40,000
• TOTALS	30,500		70,000

BANK DEPOSITS AND CASH EXPENDITURE METHOD

- DEPOSITS AS RECONCILED
- LESS NONTAXABLES
- PLUS CASH EXPENSES
- ADJUST FOR ACCRUALS



BANK DEPOSIT AND CASH EXPENDITURE METHOD

• DEPOSITS	50,000
• LESS:	
• LOAN	10,000
• PLUS:	
• CASH EXPENSES NOT ON DEPOSIT	20,000
• RESULT	<u>60,000</u>
• GROSS RECEIPTS	60,000
• GROSS RECEIPTS PER RETURN	40,000
• ADJUSTMENT	20,000

Polling Question

- If income is **not** on deposit, select the best Indirect Method of Proving Income to use:
 - 1. Bank Deposit
 - 2. Source and Application of Funds

APPEAL RIGHTS

- Several Opportunities to Appeal
- Informal Conference with the Manager – Fast Track Settlement
- Formal Appeal
- 90-Day Letter – Statutory Notice of Deficiency



MISSION OF APPEALS

Resolve tax controversies without litigation,
Fair and Impartial,
Enhance voluntary compliance and
public confidence



APPEALS COMMITMENTS

Explain Rights

Listen

Timeliness and Responsiveness

Be Fair

Be Impartial

EXPECTATIONS

Fair

Equitable

Reasonable

STAGES OF APPEALS

Informal with Manager

Fast Track Settlement – Exam

Fast Track Mediation – Collection



APPEALS PROGRAMS

Include mediation called
Alternative Dispute Resolution
After an appeals conference there is
Post Appeals Mediation



Ooops a Statutory Notice of Deficiency has been issued

Now what?

Notice of Deficiency



Department of the Treasury
Internal Revenue Service
Small Business and Self-Employed
955 South Springfield Avenue
Springfield NJ 07081

Date: OCT 26 2016

Taxpayer ID number:

Form:
1040

Person to contact:

Contact telephone number:

Contact fax number:

Employee ID number:

Last day to file petition with US tax court:
JAN 24 2017

CERTIFIED MAIL

CLIENT NAME
CLIENT ADDRESS
CITY, STATE ZIP

Tax Year Ended:	December 31, 2014	December 31, 2015
Deficiency:		
Increase in tax	\$18,617.00	\$10,394.00
Penalties or Additions to Tax		
IRC 6662(a)	3,723.40	2,078.80

- 90 Days to File in Tax Court
- MUST file to preserve taxpayers rights
- Most do not

Notice of Deficiency

- Cannot ask for rescinding
- Cannot ignore it
- File in the United States Tax Court
- If you file in United States Tax Court, and the case has not already been to Appeals it will be sent there. IRM 8.4.1.4, Revenue Procedure 2016-22

United States Tax Court Petition

UNITED STATES TAX COURT

www.ustaxcourt.gov

(FIRST) (MIDDLE) (LAST)

(PLEASE TYPE OR PRINT) Petitioner(s)

v.

COMMISSIONER OF INTERNAL REVENUE,

Respondent

} Docket No.

PETITION

1. Please check the appropriate box(es) to show which IRS ACTION(S) you dispute:

- | | |
|---|--|
| <input type="checkbox"/> Notice of Deficiency | <input type="checkbox"/> Notice of Determination Concerning Relief From Joint and Several Liability Under Section 6015 (or Failure of IRS to Make Determination Within 6 Months After Election or Request for Relief)* |
| <input type="checkbox"/> Notice of Determination Concerning Collection Action | <input type="checkbox"/> Notice of Certification of Your Seriously Delinquent Federal Tax Debt to the Department of State |
| <input type="checkbox"/> Notice of Final Determination for [Full/Partial] Disallowance of Interest Abatement Claim (or Failure of IRS to Make Final Determination Within 180 Days After Claim for Abatement)* | <input type="checkbox"/> Notice of Determination Under Section 7623 Concerning Whistleblower Action* |
| <input type="checkbox"/> Notice of Determination of Worker Classification* | |

*For additional information, please see "Taxpayer Information: Starting a Case" at www.ustaxcourt.gov (accessible by hyperlink from asterisks above, or in the Court's information booklet).

2. If applicable, provide the date(s) the IRS issued the NOTICE(S) checked above and the city and State of the IRS office(s) issuing the NOTICE(S): _____

3. Provide the year(s) or period(s) for which the NOTICE(S) was/were issued: _____

4. SELECT ONE OF THE FOLLOWING (unless your case is a whistleblower or a certification action):

If you want your case conducted under small tax case procedures, check here: (CHECK ONE BOX)
If you want your case conducted under regular tax case procedures, check here: (CHECK ONE BOX)

NOTE: A decision in a "small tax case" cannot be appealed to a Court of Appeals by the taxpayer or the IRS. If you do not check either box, the Court will file your case as a regular tax case.

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

UNITED STATES TAX COURT

www.ustaxcourt.gov

Petitioner(s)

v.

COMMISSIONER OF INTERNAL REVENUE,

Respondent

} Docket No.

STATEMENT OF TAXPAYER IDENTIFICATION NUMBER

(E.g., Social Security number(s), employer identification number(s))

Name of Petitioner _____

Petitioner's Taxpayer Identification Number _____

Name of Additional Petitioner _____

Additional Petitioner's Taxpayer Identification Number _____

If either petitioner is seeking relief from joint and several liability on a joint return pursuant to Section 6015, I.R.C. 1986, and Rules 320 through 325, name of the other individual with whom petitioner filed a joint return:

Taxpayer Identification Number of the other individual, if available:

SIGNATURE OF PETITIONER OR COUNSEL

DATE

SIGNATURE OF ADDITIONAL PETITIONER

DATE

UNITED STATES TAX COURT

www.ustaxcourt.gov

Petitioner(s)

v.

COMMISSIONER OF INTERNAL REVENUE,

Respondent

} Docket No.

REQUEST FOR PLACE OF TRIAL

PLACE AN "X" IN ONLY ONE BOX TO REQUEST THE PLACE OF TRIAL. IF PETITIONER(S) ELECTED TO HAVE THE CASE CONDUCTED AS A SMALL TAX CASE, REQUEST ANY CITY LISTED BELOW; OTHERWISE, REQUEST ANY CITY NOT MARKED WITH AN ASTERISK (*).

- | | | |
|--|--|--|
| ALABAMA
<input type="checkbox"/> Birmingham
<input type="checkbox"/> Mobile | KANSAS
<input type="checkbox"/> Wichita*
KENTUCKY
<input type="checkbox"/> Louisville | OHIO
<input type="checkbox"/> Cincinnati
<input type="checkbox"/> Cleveland
<input type="checkbox"/> Columbus |
| ALASKA
<input type="checkbox"/> Anchorage | LOUISIANA
<input type="checkbox"/> New Orleans
<input type="checkbox"/> Shreveport* | OKLAHOMA
<input type="checkbox"/> Oklahoma City |
| ARIZONA
<input type="checkbox"/> Phoenix | MAINE
<input type="checkbox"/> Portland* | OREGON
<input type="checkbox"/> Portland |
| ARKANSAS
<input type="checkbox"/> Little Rock | MARYLAND
<input type="checkbox"/> Baltimore | PENNSYLVANIA
<input type="checkbox"/> Philadelphia
<input type="checkbox"/> Pittsburgh |
| CALIFORNIA
<input type="checkbox"/> Fresno*
<input type="checkbox"/> Los Angeles
<input type="checkbox"/> San Diego
<input type="checkbox"/> San Francisco | MASSACHUSETTS
<input type="checkbox"/> Boston | SOUTH CAROLINA
<input type="checkbox"/> Columbia |
| COLORADO
<input type="checkbox"/> Denver | MICHIGAN
<input type="checkbox"/> Detroit | SOUTH DAKOTA
<input type="checkbox"/> Aberdeen* |
| CONNECTICUT
<input type="checkbox"/> Hartford | MINNESOTA
<input type="checkbox"/> St. Paul | TENNESSEE
<input type="checkbox"/> Knoxville
<input type="checkbox"/> Memphis
<input type="checkbox"/> Nashville |
| DISTRICT OF COLUMBIA
<input type="checkbox"/> Washington | MISSISSIPPI
<input type="checkbox"/> Jackson | TEXAS
<input type="checkbox"/> Dallas
<input type="checkbox"/> El Paso
<input type="checkbox"/> Houston
<input type="checkbox"/> Lubbock
<input type="checkbox"/> San Antonio |
| FLORIDA
<input type="checkbox"/> Jacksonville
<input type="checkbox"/> Miami
<input type="checkbox"/> Tallahassee*
<input type="checkbox"/> Tampa | MISSOURI
<input type="checkbox"/> Kansas City
<input type="checkbox"/> St. Louis | UTAH
<input type="checkbox"/> Salt Lake City |
| GEORGIA
<input type="checkbox"/> Atlanta | MONTANA
<input type="checkbox"/> Billings*
<input type="checkbox"/> Helena | VERMONT
<input type="checkbox"/> Burlington* |
| HAWAII
<input type="checkbox"/> Honolulu | NEBRASKA
<input type="checkbox"/> Omaha | VIRGINIA
<input type="checkbox"/> Richmond
<input type="checkbox"/> Roanoke* |
| IDAHO
<input type="checkbox"/> Boise
<input type="checkbox"/> Pocatello* | NEVADA
<input type="checkbox"/> Las Vegas | WASHINGTON
<input type="checkbox"/> Seattle
<input type="checkbox"/> Spokane |
| ILLINOIS
<input type="checkbox"/> Chicago
<input type="checkbox"/> Peoria* | NEW JERSEY
<input type="checkbox"/> Albany*
<input type="checkbox"/> Buffalo
<input type="checkbox"/> New York City | WEST VIRGINIA
<input type="checkbox"/> Charleston |
| INDIANA
<input type="checkbox"/> Indianapolis | NEW MEXICO
<input type="checkbox"/> Albuquerque | WISCONSIN
<input type="checkbox"/> Milwaukee |
| IOWA
<input type="checkbox"/> Des Moines | NORTH CAROLINA
<input type="checkbox"/> Winston-Salem | WYOMING
<input type="checkbox"/> Cheyenne* |
| | NORTH DAKOTA
<input type="checkbox"/> Bismarck* | |

So how do you save taxpayers?

- We reopen these bad assessments
- Client goes into collection – Now they decide to show up
- Options:
 - Audit Reconsideration
 - Doubt-as-to-Liability Offers
 - Collection Due Process
 - Pay and Refund (Refund Litigation)
 - Bankruptcy



THANK YOU

**FOR INVITING
ME TODAY
AND FOR
YOUR ATTENTION.**



J.L. WEINER

&

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