

**November 16, 2011**

**Texas Practitioner Liaison Meeting**

**Austin, Texas**

Time: 10:00 a.m. – 3:00 p.m.

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## **Attendees:**

### **Practitioner Representatives**

- Steven Bankler, Texas Society of Certified Public Accountants
- Valorie Paugh, Texas Society of Enrolled Agents
- Susan Graham, Texas Society of Enrolled Agents
- Joy Hudman, Texas Society of Enrolled Agents
- Jackie Rollins, Capital of Texas Enrolled Agents
- Sharon Bibber, Capital of Texas Enrolled Agents
- Mandi Matlock, State Bar of Texas
- Christi Mondrik, State Bar of Texas
- Karen Coombes, National Association of Tax Professionals
- Donna Shook, National Association of Tax Professionals
- Lloyd Thelemann, Texas Association of Financial and Tax Specialists

### **IRS Representatives**

- Georgia Thomas, Manager, Southwest Area Stakeholder Liaison Field Division
  - Henry Martinez, Senior Stakeholder Liaison, Southwest Area Stakeholder Liaison Field
  - Sherry Saucerman, Senior Stakeholder Liaison, Southwest Area Stakeholder Liaison Field
  - Stephen P. Lacey, Appeals Team Manager, Austin Office of Appeals
  - Ronnie Clark, Revenue Agent, Exam SBSE, Austin Planning & Special Programs
  - Nancy Farthing, Local Taxpayer Advocate, Austin Campus
  - Judy McMillan, Advisor, Houston Advisory Group, Collection
  - Felix J. Carrillo Jr., Manager, Houston Advisory Group, Collection
  - Richard Schampers, Manager, Central South Territory, Bank Secrecy Act
  - Sarah Plowman, Senior Analyst, Employment Tax
  - Daniel Price, Associate Area Counsel, Austin TX
  - Richard Sealy, Associate Area Counsel, Austin TX
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## **Meeting Summary**

**Felix J. Carrillo Jr.** – via Voice over Internet Protocol (VOIP)

Provided an overview of the [Fresh Start Initiative](#).

### [Adjustments to IRS Lien Policies](#)

- Significantly increasing the dollar threshold when liens are generally issued, resulting in fewer tax liens
- Making it easier for taxpayers to obtain lien withdrawals after paying a tax bill

- Withdrawing liens in most cases where a taxpayer enters into a Direct Debit Installment Agreement
- Interim Guidance [IRMs 5.12.2, 5.4.12, 5.16.1, and 5.8.4 – Interim Guidance for Increase in Lien Filing Threshold](#) – Collection policy issued a memo to employees on March 28, 2011 supplementing IRMs 5.12.2, 5.4.12, 5.16.1, and 5.8.4. The memo provides guidance regarding an increase to the threshold for filing Notices of Federal Tax Lien (NFTL) on field collection cases.
- Additional lien information can be found under [File a Notice of Federal Tax Lien](#)
- [Publication 4235, Technical Services Advisory Group Addresses](#)

#### [Creating easier access to Installment Agreements for more struggling small businesses](#)

- [Installment Agreement Chart](#) IRM Exhibit 5.14.1-5

#### [Expanding the streamlined Offer in Compromise program to cover more taxpayers](#)

- Interim Guidance [IRM 5.8 - Centralized Offer in Compromise Streamline Offer Processes](#) – Collection policy issued a memo to employees on May 13, 2011 supplementing IRM 5.8. The memo provides guidance for streamline offer processing.

Additional information: [IRS Live presents The IRS Fresh Start Initiative - Webinar \(August 31, 2011\)](#)

#### **Rick Schampers -**

Provided an overview of the [Bank Secrecy Act](#) programs.

The documents filed by businesses under the BSA requirements are heavily used by law enforcement agencies, both domestic and international to identify, detect and deter money laundering whether it is in furtherance of a criminal enterprise, terrorism, tax evasion or other unlawful activity.

#### [Reporting Cash Payments of Over \\$10,000](#)

The general rule is that you must file Form 8300, Report of Cash Payments Over \$10,000 Received in a Trade or Business, if your business receives more than \$10,000 in cash from one buyer as a result of a single transaction or two or more related transactions.

Businesses offering check cashing, money orders, travelers checks, money transfers, currency dealing or exchange, and pre-paid access (formerly stored value) products are [Money Services Businesses](#) and are subject to Bank Secrecy Act requirements. If you receive cash payments over \$10,000, then you must file [FinCEN Form 104, Currency Transaction Report](#).

When the MSB knows, suspects or has reason to suspect that the transaction or pattern of transactions is suspicious and involves \$2,000 or more, a [FinCEN Form 109, Suspicious Activity Report \(SAR\)](#) (PDF) must be filed by the covered MSB.

As of January 1, 2006, dealers in precious metals, precious stones, and jewels are subject to the same anti-money laundering program requirement as other

financial institutions, such as banks, money services businesses, casinos, and brokers-dealers. The industry is vulnerable to money laundering and other financial crimes, including terrorist financing, because precious metals, stones, and jewels are highly concentrated forms of wealth, which are easily converted to cash and also are very transportable. See [New Requirement for the Precious Metal, Precious Stone, and Jewel Industries](#) for more information.

#### [Suspicious Activity Reports](#)

Suspicious Activity Reports (SARs) are one of the government's main weapons in the battle against money laundering and other financial crimes since these reports generate leads that law enforcement agencies use to initiate money laundering investigations.

For more information see the [Money Services Business \(MSB\) Information Center](#) on IRS.gov.

#### [Report of Foreign Bank and Financial Accounts](#)

If you own a foreign bank account, brokerage account, mutual fund, unit trust, or other financial account, then you may be required to report the account yearly to the Internal Revenue Service.

Archived webinar – [Reporting Foreign Financial Accounts on the FBAR](#)

Rick provided copies of [Money Laundering Prevention - An MSB Guide](#) published by FinCen (Financial Crimes Enforcement Network).

#### **Nancy Farthing -**

Discussed the temporary change to [TAS Case Acceptance Criteria](#).

TAS is temporarily limiting its acceptance of cases when the taxpayer's problem involves an IRS delay in processing certain tax documents. If the taxpayer is not currently facing an imminent threat of enforcement action or otherwise experiencing situations that meet the definition of an economic burden, TAS will refer the taxpayer to the appropriate IRS function specializing in return processing issues, rather than accepting the problem as a TAS case.

TAS has at least one local taxpayer advocate office in every state, the District of Columbia, and Puerto Rico. You can call [your local advocate](#). (Numbers to the Campus Taxpayer Advocates are at the bottom of the web page.) You can also call our toll-free number at 1-877-777-4778.

#### **Sarah Plowman -**

Provided an update on the employment tax program

In 2011, changes were made to Form 941 and 940 to reflect law changes. As some were only temporary, Form 941 will change again for 2012.

- [2011 Form 941](#) Employer's Quarterly Federal Tax Return
- [2011 Form 940](#) Employer's Annual Federal Unemployment (FUTA) Tax Return

- [2012 Draft Form 941](#) Employer's Quarterly Federal Tax Return

A new line (5e) was added to Form 941 for reporting social security and Medicare taxes on unreported tips. The IRS issues a Section 3121(q) Notice and Demand to advise an employer of the amount of tips received by employees who failed to report or underreported tips to the employer. An employer is not liable for the employer share of the social security and Medicare taxes on unreported tips until a Section 3121(q) Notice and Demand for the taxes is made to the employer by the IRS. The tax due may have been determined from tips reported to the IRS on employees' Form 4137, Social Security and Medicare Tax on Unreported Tip Income, or other tips that were not reported to their employer as determined by the IRS during an examination. For more information watch [IRS Live presents Collecting Employer Taxes on Tips - Webinar \(9/29/2010\)](#)

Starting in tax year 2011, the Affordable Care Act requires employers to report the cost of coverage under an employer-sponsored group health plan. To give employers more time to update their payroll systems, [Notice 2010-69](#), issued last fall, made this requirement optional for all employers in 2011. IRS [Notice 2011-28](#) provided further relief for smaller employers filing fewer than 250 W-2 forms by making the reporting requirement optional for them at least for 2012 and continuing this optional treatment for smaller employers until further guidance is issued. [Notice 2011-28](#) also includes information on how to report, what coverage to include and how to determine the cost of the coverage. For more information, see the 2011 [Form W-2](#), [IR-2011-31](#), [frequently asked questions](#) and our multimedia products —an [IRS YouTube video](#) and [Reporting of Employer Healthcare Coverage on Form W-2](#) – Webinar (10/31/2011).

Worker Classification continues to be an issue. It is critical that business owners correctly determine whether the individuals providing services are [employees or independent contractors](#).

If your client has employees reclassified during an employment tax audit they may be eligible for the [Classification Settlement Program \(CSP\)](#). CSP establishes procedures under an optional classification settlement program that allow businesses and tax examiners to resolve worker classification cases as early in the administrative process as possible, thereby reducing taxpayer burden. The procedures also ensure that the taxpayer relief provisions under [Section 530 of the Revenue Act of 1978](#) are properly applied. CSP agreements are closing agreements that bind the Service and the taxpayer to prospective tax treatment for future tax periods. The IRS monitors CSP agreements and follows up annually to assess compliance with the agreements.

CSP is only available through the audit process. In September the IRS announced the [Voluntary Classification Settlement Program](#). The Voluntary Classification Settlement Program (VCSP) is a new optional program that provides taxpayers with an opportunity to reclassify their workers as employees for future tax periods for employment tax purposes with partial relief from federal employment taxes for eligible taxpayers that agree to prospectively treat their workers (or a class or group of workers) as employees. To participate in this new voluntary program, the taxpayer must meet certain eligibility requirements, apply to participate in the VCSP by filing Form 8952, Application for Voluntary

Classification Settlement Program, and enter into a closing agreement with the IRS.

The IRS has entered into agreements with state workforce agencies and the Department of Labor to share information on questionable employment tax practices and worker misclassification. For more information see:

- [IRS and States to Share Employment Tax Examination Results](#)
- [Labor secretary, IRS commissioner sign memorandum of understanding to improve agencies' coordination on employee misclassification compliance and education \(MOU\)](#)

On September 14, the IRS issued [guidance](#) designed to clarify the tax treatment of employer-provided cell phones. Additional information is in News Release 2011-93 [IRS Issues Guidance on Tax Treatment of Cell Phones; Provides Small Business Recordkeeping Relief](#)

#### **Jackie Rollins -**

Jackie is a member of the Taxpayer Advocacy Panel and currently serving as Vice Chair for 2012.

TAP is currently reorganizing their panels from a geographic orientation to one based on issues. [The 2010 Annual Report](#), released in September, can be found on the TAP website: [www.improveirs.org](http://www.improveirs.org).

#### **Richard Sealy and Dan Price -**

Dick and Dan provided an update on the Return Preparer Initiative.

PTIN registration began last year and the program updated this year to allow for renewals and to address additional issues. Current information on the PTIN program and the Return Preparer Initiative can be found on IRS.gov on the [PTIN Requirements](#) page. The page is constantly being updated as final decisions are made on a number of issues. Some of the most recent releases are:

- [IR-2011-105 \(10/20/11\): IRS Begins PTIN Renewals for 2012 Filing Season \(En español\)](#)
- [IR-2011-100 \(10/12/11\): IRS Urges Tax Professionals to Prepare Now for New e-File Rules \(En español\)](#)
- [IR-2011-96 \(9/21/11\): IRS Issues Guidance to Further Implement Return Preparer Oversight \(En español\)](#)
- [Notice 2011-91](#): Certain Enrolled Retirement Plan Agents Not Required to Obtain a PTIN (PDF)
- [Notice 2011-80](#): Guidance Regarding Obtaining and Renewing PTINs and Continuing Education Requirements for Registered Tax Return Preparers (PDF)
- [REG-116284-11](#): Proposed User Fees Relating to the Registered Tax Return Preparer Competency Examination and Fingerprinting Participants in the Preparer Tax Identification Number, Acceptance Agent, and Authorized E-File Provider Programs (PDF)

Information on the [Competency Test](#) and [Continuing Education](#) is also constantly being updated.

### **Sherry Saucerman -**

Touched on some of the latest news from IRS.

[Identity Theft](#) causes numerous problems for taxpayers and the IRS is working to help alleviate some of those related to filing tax returns. When the taxpayer advises us that they are victims of identity theft, we place an indicator on their account. Starting this fall we are sending letters to those with the indicator providing them with a unique Identity Protection PIN. This IP PIN needs to be entered where indicated on their return. If they lose the IP PIN they will not be able to file their 2011 1040 electronically. For more information see:

- [Understanding Your LTR4868CS Letter](#)
- 2011 Form [1040](#)

Current regulations require tax return preparers to complete the Form 8867, Paid Preparer's Earned Income Credit Checklist or its equivalent. Beginning in 2012, using an equivalent will no longer be an option and IRS will require preparers to complete and **submit** the Form 8867 with all returns and refund claims for EITC under proposed regulations. Find further details and additional proposals in [REG-140280-09](#) and in the [EITC Tax Preparer Toolkit](#)

The IRS announced in [IR-2011-102](#) that tax professionals can earn continuing professional education credits online through seminars filmed at the 2011 IRS Nationwide Tax Forums. The seminars are now available on [IRS Nationwide Tax Forums Online](#) (NTFO). The 14 self-study seminars provide information to tax professionals using interactive videos synchronized with slides. Each seminar includes downloadable PowerPoint slides and a transcript.

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## **Issues & Status**

**Issue** – Will Form 2848 be updated to provide a designation for the new Registered Tax Return Preparer?

**Issue Status Report** – Closed. Yes. Please see [Form 2848](#) Power of Attorney and Declaration of Representative 1011 (posted 11/22/2011)

**Issue** – Practitioners reported instances where there could not efile returns because the SSN had already been used on another return. In each case, the compromised SSN was that of a decedent. In one case the taxpayer died in August 2011 and the practitioner attempted to file the return less than 30 days after death.

**Issue Status Report** – Closed. All instances of identity theft should be reported to the IRS Identity Protection Specialized Unit (800-908-4490). If practitioners identify websites that are disclosing SSNs, please let your local Stakeholder Liaison know the URL.

**Issue** – Practitioner feels that the wording on the second page of Notice [CP11](#) implies that the taxpayer will be audited if they do not agree with the changes made to the return. They felt the wording needed to be improved.

**Response** – The IRS is redesigning and revising its correspondence with taxpayers for clarity, effectiveness and efficiency. The new format includes a plain language explanation of the nature of the correspondence, clearly states what action the taxpayer must take and presents a clear, clean design. This notice has been redesigned in the new format. We will consider specific suggestions.

Information on [Responding to a Notice](#) is posted to IRS.gov. A link to the page is included on the home page. The page includes sample copies of the more common notices and information on what to do if received.

**Issue** – Practitioners are unable to efile returns when there is a large refund. They understand that this is a security measure to prevent large erroneous refunds, but feel that the return could still be accepted electronically. Rather than rejecting the return, a hold can be placed on the refund until its validity is established.

**Issue Status Report** – Open. We will elevate the suggestion.

**Issue** – Circular 230 section 10.30(a) on advertising and solicitation procedures provides examples of acceptable descriptions that can be used for registered tax return preparer. Would this language need to be used on business cards? Are they considered advertising?

**Issue Status Report** – Open. We will forward the question up for clarification.

**Issue** – Practitioner efile mandate: Will prior year returns count toward the number of returns expected to be filed when determining if a return preparer is required to efile?

**Issue Status Report** – Open. We will forward the question for clarification

**Issue** – Once MeF is fully functional, will prior year returns be eligible for filing through the Free File Alliance?

**Issue Status Report** – Open. We will forward the question for clarification

**Issue** – Can Form 8879 be used as a signature document when paper filing a rejected return?

**Issue Status Report** – Closed. Yes. Form 8879 can be used as a signature document. The ERO should submit a letter of explanation, a printed copy of the electronic file showing the return was rejected for e-file and could not be resolved, Form 8879 and the return. See IRM 3.11.3.14.10(7)(D)

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## Roundtable & Comments

Georgia (SLF) advised that Stakeholder Liaison is looking for ways to reach out to taxpayers with limited English proficiency (LEP). Practitioners offered to provide names of members with proficiency in other languages. They also suggested reaching out to some of the local universities.

Lloyd (TAFTS) reminded everyone that the [2012 Tax Alliance Conference](#) will be held in Plano on June 12, 13 and 14.

Stephen Lacey (Appeals)

- Appeals is conducting a [Customer Satisfaction Survey](#). They should not be asking for any personal or financial information.
- **Issue:** Practitioner complained that there are extensive delays in resolving cases in Appeals.
  - **Response:** Over the last couple of years, Examination hired new agents. Appeals was not authorized to hire at the same level. Now that the revenue agents are trained and working cases, the appeals officers' case load has doubled. They are working cases under first-in/first-out and trying to make contact every 90 days. Locally Appeals was able to hire one additional Appeals Officer. They now have seven in Austin and two in San Antonio.
- Chris Wagner is the new Appeals Commissioner.

Ronnie Clark is retiring as of December 31, 2011. We will miss all his support on practitioner issues.

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### **Next Scheduled Meeting**

The next meeting will be May 2012 in Austin, Texas. The exact date is to be determined.

If you have suggestions for topics, please forward them to Henry Martinez.