IRS issues guidance on new IDR enforcement process

November 18, 2013

In brief

On November 4, 2013, the Large Business & International Division (LB&I) of the Internal Revenue Service (IRS) issued a directive (LB&I-04-1113-009) (the 'directive') that provides guidance on a new information document request (IDR) enforcement process that is effective on January 2, 2014. According to the directive, the new procedures are designed to make the IDR process as efficient and transparent as possible by improving the ability of the IRS to gather information timely and reducing the need to enforce IDRs through summonses.

In detail

Earlier this year, LB&I employees completed mandatory training outlining a new three-step IDR enforcement process that was finalized in the directive. The new process provides that once an IDR becomes delinquent, a delinquency notice will be issued within 10 days giving the taxpayer a set amount of time to comply (generally no more than 15 days). If the taxpayer does not respond within that amount of time, a pre-summons letter will be issued. If the pre-summons letter is not effective, a summons will be issued generally within 10 days. See *WNTS Insight: Trick or treat: Taxpayers receive delinquency notices under not-yet-final IDR enforcement procedures*.

The directive is largely consistent with IRS training materials discussed in our prior Insight, but provides some additional guidance, as follows:

- The directive instructs examiners and specialists to commit to a date by which the IDR will be reviewed and responded to and to put that date in the IDR.
- The directive removes the reference to 'extreme and unusual circumstances' in discussing instances when a territory manager may provide an extension beyond 15 days in the delinquency notice.
- The directive clarifies that pre-summons letters generally should be issued within 14 days of a missed deadline set forth in a delinquency notice.
- The directive clarifies that Director of Field Operations approval is necessary if a pre-summons letter gives a taxpayer more than 10 days to respond.
- The new process applies only to IDRs issued in accordance with the requirements specified in the directive. Specifically, the IDRs must be issue-focused, discussed with the taxpayer in advance, and a timeframe for responding must be agreed to with the taxpayer. See *WNTS Insight: Recent IRS directive aims to improve Information Document Request process*.

An IDR that fails to meet the new requirements must be reissued to conform to these requirements. The reissued IDR will include a new response date establishing when the new enforcement procedures will apply to the IDR.

- The directive instructs IRS teams to discuss the new process with taxpayers currently under exam by December 15, 2013.
- For a smooth transition to the new process, the directive provides that examiners and specialists should not issue delinquency notices before February 3, 2014.

The takeaway

According to the directive, enforcement will take place only if a taxpayer misses an IDR deadline that has already been discussed with the taxpayer and agreed to by both the IRS and the taxpayer. Although the IRS has said that it does not expect a substantial increase in the number of delinquency notices and summonses as a result of the directive, it remains to be seen whether this will actually be the case. In the meantime, taxpayers need to be prepared to comply with the new process beginning January 2, 2014.

Let's talk

For a deeper discussion of how this might affect your business, please contact:

Tax Controversy and Regulatory Services

Liz Askey
+1 202 414 1322
elizabeth.askey@us.pwc.com

Kevin Brown
+1 202 346 5051
kevin.brown@us.pwc.com

Gary Wilcox
+1 202 312 7942
gary.wilcox@us.pwc.com

Lou Carlow
+1 213 356 6319
louis.e.carlow@us.pwc.com

Keith Jones
+1 202 346 5142
keith.m.jones@us.pwc.com

Linda Stiff
+1 202 312 7587
linda.stiff@us.pwc.com

Joanne Betts MacDonald
+1 617 530 5476
joanne.b.macdonald@us.pwc.com

Joe Maselli
+1 646 471 5156
joseph.f.maselli@us.pwc.com