Tax Rep Launch Master Class:

IRS Audits

Eric L. Green, Esq.

TRN
TAX REP NETWORK

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 before the Department of Justice Tax Division, Internal Revenue Service and state Departments of Revenue Services.
- Has served as a columnist for CCH's Journal of Practice & Procedure.
- 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 Net Network

Housekeeping

- This is a four-hour program: one hour a day for today and the next three days
- If you miss any they are all being recorded and you will receive links to the recording to watch
- There is no ce/cpe for this class

Schedule

- ~~Monday (Day 1): Finding Clients~~
- ~~Tuesday (Day 2): Onboarding and Pricing~~
- Wednesday (Day 3): Resolving the IRS Audit Case
- Thursday (Day 4): Resolving the Resolution Case

So the phone rings…

- The client received an audit notice
- Why?
- What do we do first?

Get retained!

- Engagement Letter
- Payment ($)
- Power-of-Attorney
- Link for document upload

We take a $7,500 retainer…why? Wait until slide 10

The POA

- Client's return for 2023 is being audited
- They have the same issue in 2022
- Do you add it to the POA?

3 Acts authorized (you are required to complete line 3). Except for the acts described in line 5b, I authorize my representative(s) to receive and inspect my confidential tax information and to perform acts I can perform with respect to the tax matters described below. For example, my representative(s) shall have the authority to sign any agreements, consents, or similar documents (see instructions for line 5a for authorizing a representative to sign a return).

Description of Matter (Income, Employment, Payroll, Excise, Estate, Gift, Whistleblower, Practitioner Discipline, PLR, FOIA, Civil Penalty, Sec. 4980H Shared Responsibility Payment, etc.) (see instructions)	Tax Form Number (1040, 941, 720, etc.) (if applicable)	Year(s) or Period(s) (if applicable) (see instructions)
Income	1040	12/31/2001 - 12/31/2028
Separate Assessment	1040	12/31/2001 - 12/31/2028
Civil Penalties	Section 6672	03/31/2001 - 12/31/2028

“Is there a reason to be concerned about the return?”

“Do not say anything but either ‘yes’ or ‘no’!”

4 Steps Critical to a Successful Conclusion?

1. Explaining to the client the process (calm them down)
2. Preparation
3. Preparation
4. Preparation

You must

- Review the return and records
- See the place of business (if they own one)
- See the home office (if they claim one) – bring a measuring tape

One of my first Tax Rep Members

- “Good luck,” he said, “if you survive it.”
- Dumbest words ever stated by a supposed Tax Attorney
- You deconstruct the return!

Pull the back-up on each item

- Fastest way to get to a closed, agreed audit is preparation
- Provide audit with what it needs to support the numbers
- The taxpayer bears the burden of proving they are entitled to a deduction

Meet George Cohan

- Famous singer, writer and producer
- Audited
- Had no receipts
- Auditor agreed he must have traveled and incurred expense, but denied all deductions
- 2nd Circuit said you can't do that – his estimates are enough to shift the burden to the government

Need to be (legally) creative

- House flipper with no receipts
- Buddy goes on the MLS
- From before and after pictures and permits pulled we identify improvements
- Go to Lowes.com and price the stuff
- Got Appeals to provide 74% of claimed expenses

The Daycare that Did Not Respond

- Daycare owner had a stroke
- Audit notice was not responded to
- Auditor took an industry standard (day cares get 30% of their payments by credit card)
- Took 1099-K, assumed it was 30% and came up with $2 million in unreported cash
- 75% civil fraud penalty and interest

The Daycare that Did Not Respond

- Daycares are licensed by the state – certain number of children
- Town has prints and layouts of the building
- Provided above plus proof of payments
- This day care is in an extremely wealthy area so parents just leave credit cards on file for monthly charging
- Appeals agreed to a no-change

30-Day Letter

Department of the Treasury
Internal Revenue Service
Small Business and Self-Employed
150 Court Street
New Haven CT 06510

Date:
March 30, 2020
Taxpayer ID number (last 4 digits):
0000
Form:
1040
Tax periods ended:
December 31, 2013
December 31, 2014
December 31, 2015

MR. TAXPAYER
TAXPAYER'S COMPANY
MAIN STREET
NEW HAVEN, CT 06511

Person to contact:
Audit Manager
Contact telephone number:
203 xxx-xxxx
Contact fax number:
877 xxx-xxxx
Employee ID number:
08-0000000
Response due date:
April 29, 2020

Dear TAXPAYER:

I have enclosed an examination report and two copies of an agreement form showing proposed changes to your tax for the periods above. Review the report, and tell us whether you agree or disagree with the changes **by the response due date above.** If you have an interest in any partnerships, S corporations, trusts, etc., this report may not reflect examinations of those entities. Changes to those accounts could also affect your tax.

If you agree with the proposed changes in the report

1. Sign and date one copy of the agreement form and keep the other copy for your records. If you filed a joint return, both spouses must sign for the case to be fully agreed.
2. Include payment for the full amount you owe (if the report shows you owe additional tax) to limit penalty and interest charges to your account. Make your check or money order payable to the United States Treasury.
3. Return the signed and dated agreement form with your payment in the enclosed envelope by the response due date.

If you agree, but can't pay the full amount you owe
Pay as much as you can, and sign, date, and return one copy of the agreement form, as explained above. We explain payment options in the enclosed Publication 3498, The Examination Process. You can also find more information regarding payment options by visiting Tax Topic 202 at www.irs.gov/taxtopics/tc202.html and www.irs.gov/payments.

TRN
TAX REP NETWORK

Notice of Deficiency (90-Day Letter)

IRS

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

CERTIFIED MAIL

CLIENT NAME
CLIENT ADDRESS
CITY, STATE ZIP

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

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

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]

US 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:

- ☐ Notice of Deficiency
- ☐ Notice of Determination Concerning Collection Action
- ☐ 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)*
- ☐ Notice of Determination of Worker Classification*
- ☐ 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)*
- ☐ Notice of Certification of Your Seriously Delinquent Federal Tax Debt to the Department of State
- ☐ Notice of Determination Under Section 7623 Concerning Whistleblower Action*

*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**
If you want your case conducted under regular tax case procedures, check here: ☐ **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
- ☐ Birmingham
- ☐ Mobile

ALASKA
- ☐ Anchorage

ARIZONA
- ☐ Phoenix

ARKANSAS
- ☐ Little Rock

CALIFORNIA
- ☐ Fresno*
- ☐ Los Angeles
- ☐ San Diego
- ☐ San Francisco

COLORADO
- ☐ Denver

CONNECTICUT
- ☐ Hartford

DISTRICT OF COLUMBIA
- ☐ Washington

FLORIDA
- ☐ Jacksonville
- ☐ Miami
- ☐ Tallahassee*
- ☐ Tampa

GEORGIA
- ☐ Atlanta

HAWAII
- ☐ Honolulu

IDAHO
- ☐ Boise
- ☐ Pocatello*

ILLINOIS
- ☐ Chicago
- ☐ Peoria*

INDIANA
- ☐ Indianapolis

IOWA
- ☐ Des Moines

KANSAS
- ☐ Wichita*

KENTUCKY
- ☐ Louisville

LOUISIANA
- ☐ New Orleans
- ☐ Shreveport*

MAINE
- ☐ Portland*

MARYLAND
- ☐ Baltimore

MASSACHUSETTS
- ☐ Boston

MICHIGAN
- ☐ Detroit

MINNESOTA
- ☐ St. Paul

MISSISSIPPI
- ☐ Jackson

MISSOURI
- ☐ Kansas City
- ☐ St. Louis

MONTANA
- ☐ Billings*
- ☐ Helena

NEBRASKA
- ☐ Omaha

NEVADA
- ☐ Las Vegas
- ☐ Reno

NEW MEXICO
- ☐ Albuquerque

NEW YORK
- ☐ Albany*
- ☐ Buffalo
- ☐ New York City
- ☐ Syracuse*

NORTH CAROLINA
- ☐ Winston-Salem

NORTH DAKOTA
- ☐ Bismarck*

OHIO
- ☐ Cincinnati
- ☐ Cleveland
- ☐ Columbus

OKLAHOMA
- ☐ Oklahoma City

OREGON
- ☐ Portland

PENNSYLVANIA
- ☐ Philadelphia
- ☐ Pittsburgh

SOUTH CAROLINA
- ☐ Columbia

SOUTH DAKOTA
- ☐ Aberdeen*

TENNESSEE
- ☐ Knoxville
- ☐ Memphis
- ☐ Nashville

TEXAS
- ☐ Dallas
- ☐ El Paso
- ☐ Houston
- ☐ Lubbock
- ☐ San Antonio

UTAH
- ☐ Salt Lake City

VERMONT
- ☐ Burlington*

VIRGINIA
- ☐ Richmond
- ☐ Roanoke*

WASHINGTON
- ☐ Seattle
- ☐ Spokane

WEST VIRGINIA
- ☐ Charleston

WISCONSIN
- ☐ Milwaukee

WYOMING
- ☐ Cheyenne*

Appeals

Internal Revenue Service
Appeals Office
CT-RI Appeals Office
333 East River Dr., Suite 200
East Hartford, CT 06108

Date: July 1, 2019

ERIC L. GREEN
GREEN & SKLARZ, LLC
700 STATE STREET, SUITE 100
NEW HAVEN, CT 06511

Department of the Treasury

Person to Contact:
APPEALS OFFICER NAME
Employee ID Number: 100100xxx
Tel: 860-290-4xxx
Fax: 860-290-4xxx
Contact Hours: 8am to 4pm, EST
Refer Reply to:
AP:EX:CT-RI:XXX
In Re:
TAXPAYER NAMES
SSN/EIN Number:
XXX-XX-XXXX
Tax Periods Ended:
12/2010, 12/2011, 12/2012, 12/2013
12/2014 and 12/2015

Dear Mr. Green:

I am an Appeals Officer with the Internal Revenue Service and have been assigned responsibility for reviewing your above-referenced client's objections following an examination of their 2010, 2011, 2012, 2013, 2014 and 2015 F1040's. My role here is to provide you and your clients with an impartial and independent review of the matter.

I am writing you today to advise that I received your fax dated July 1, 2019. I contacted your office and we are now scheduled to have a conference on this matter via phone on Tuesday, August 13, 2019 at 2pm. Please contact me at that time and I, in turn, will have endeavored to have left my line free to receive your call. If you would like to meet with me here at our offices in East Hartford, please contact me by phone so I may reserve a conference room for us to use.

I received your F2848's on this matter and have forwarded them to our processing department.

Your letter indicates the Petition has been placed on the trial docket. Please note that I checked the Tax Court web page and did not see any appearance date assigned.

IRS
Department of the Treasury
Internal Revenue Service
Independent Office of Appeals

Date:
06/09/2021
Person to contact:
Name:
Employee ID number:
Telephone:
Fax:
Hours:
Re:
Income Tax Liability
Tax periods ended:

Docket number:

Petitioner:

Dear [enter Name]:

I prepared a proposed decision document based on our tentative agreement to settle your Tax Court case for the tax periods shown above. Enclosed are an original and two copies of the proposed decision document. If you agree that the proposed decision document reflects our tentative agreement to settle your case, **please sign and date the original and one copy of the document and return both to Area Counsel in the enclosed envelope as soon as possible.** If this letter is addressed to more than one person, each of you should sign and date the document exactly as his or her name appears on the signature lines. Please sign the documents using blue, not black ink. Using blue ink will help the Tax Court confirm that the decision document is an original and not a copy. If the court clerk rejects the decision document, it will delay closing your case and you may need to appear at the Tax Court Trial Calendar Session. The third copy of the decision document and the Form 5278, Statement – Income Tax Changes, (if enclosed) are for your records.

The proposed decision document is subject to review, signature, and filing with the Tax Court by the Area Counsel. You should not consider your case settled until the Area Counsel attorney assigned to your case countersigns the decision document and forwards it to the Tax Court for entry. The Tax Court will send you a copy of the decision once a judge signs it and enters it with the court.

The decision document doesn't include interest. By law, interest on the liability runs from the date the tax return is due to the date the IRS receives your remittance paying the entire liability which includes tax, penalties, and interest. **If you want to stop or reduce interest on part or all of the taxes, you can submit an advance payment, payable to the United States Treasury, along with a copy of your decision document, to the address listed above. The total amount you owe as of [date] , including tax, penalties, and interest will be approximately .**

Years	Tax	Penalties	Interest	Total	
[YYYY]					+ x

Stipulated decision

- Appeals will draft and send four originals to the taxpayer's representative
- Sign three copies and send back
- Filed with the Tax Court, where judge stamps it (signs)

UNITED STATES TAX COURT

Anthony Antonetti & Marie Antonetti,	)	
Petitioners,	)	
	)	Docket No. 12XXX-19
v.	)	
COMMISSIONER OF INTERNAL REVENUE,	)	
Respondent.	)	

DECISION

Pursuant to the agreement of the parties in this case, it is

ORDERED and DECIDED: That there are deficiencies in income tax due from the petitioners for the taxable years 2010, 2011, 2012, 2013, 2014, and 2015 in the amounts of $30,400 for each of the six years; and

That there are penalties due from the petitioners for the taxable years of $22,800 for each of the six years respectively.

Judge.

Questions?

Tomorrow is Day 4 – IRS Collection