

IRS Update:

Identity Theft and EITC Remain Top Concerns

BY CHARLES WEBBER, CPA

Earlier this year, MSCPA representatives participated in the annual IRS Tax Practitioner Liaison Meeting where IRS officials discussed compliance issues and sought feedback from practitioners.

Several speakers addressed two significant issues—identity theft and earned income tax credit. The IRS has identified these two areas, particularly identity theft, as especially prone to preparer fraud, and is targeting enforcement resources accordingly.

Peggy Guinn, Missouri Taxpayer Advocate, reported that identity theft has been a major concern of the Taxpayer Advocate Service (TAS) since 2004, and it represents more than 70 percent of their cases. These issues have proven time-consuming and difficult to resolve. Special procedures are being implemented to identify returns of identity theft victims and to minimize the possibility of refunds being stolen. Identity theft victims should use Form 14039 to report the issue, which can be found on irs.gov along with Publication 4535, a taxpayer guide to identity theft issues.

Another issue of long-standing concern is abuse of the Earned Income Tax Credit (EITC). The IRS reports that 25 percent of EITC returns have errors, and 90 percent of tax preparer penalties associated with EITC issues result from lack of knowledge about the rules. For additional resources on this, please refer to Publication 596 for taxpayers and Publication 5933 for tax preparers on irs.gov.

Heightened preparer responsibility related to EITC is a new focus for the IRS. Sec. 6695(g) outlines preparer due diligence requirements. In addition to completing Form 8867 and filing it with the return, as was first required last year, the preparer is expected to document the identity of the taxpayer and retain copies of any documentation (i.e., birth certificate, driver's license) provided by the taxpayer. The statutory penalty for incomplete compliance is \$500 per return.

Also related to the EITC is the Schedule C reporting by taxpayers claiming the EITC. In addition to the traditional concern of underreporting Schedule C income, the IRS has become aware that many taxpayers who claim the EITC understate their deductions to maximize the credit. Of specific concern is Schedule Cs reflecting income but no deductions; such returns are particularly likely to be examined. Form 11652, Questionnaire and Supporting Documentation, is designed to assist practitioners in performing due diligence for Schedule C clients.

Catherine Murphy, IRS senior stakeholder liaison, discussed the National Research Program, which is designed to gather statistical data from randomly selected audits to improve the IRS' audit selection process. For this fiscal year, the service will examine 13,300 Form 1040 returns and more than 2,000 Form 1120 returns. The IRS continues its emphasis on high income/high wealth taxpayers with positive income greater than \$200,000.

TAS has also issued new criteria for acceptance of cases caused solely by systemic burden. TAS will not accept cases solely based on IRS delays in processing returns. Guinn noted that other significant matters they are dealing with include levy issues, EITC cases, and processing of amended returns.

MSCPA member Joe Marchbein shared his views on issues under consideration by the AICPA's Tax Division. The AICPA is concerned that taxpayers who rely on "frequently asked questions" posted on the IRS website may find the agency taking the position that it is not bound by the posted material.

In addition, the AICPA has proposed that reporting of foreign bank account information become part of the individual tax return, not reported by a separate filing on Form TDF-90.22.1, and not have a due date different than the tax return.

Marchbein also discussed the IRS' policy to usually waive failure to file/pay penalties for first-time occurrences. Also, the IRS has been sending notices to taxpayers that any income reported on line 21 of the Form 1040 is subject to self-employment tax. Practitioners should be aware that the notices may be incorrect.

Debbie Lane, appeals team leader, discussed the new Fast Track Settlement Program (FTS). It has been in place for large businesses for a while, and the IRS wants to expand it to small business and self employed employers. The program has been successfully tested in various districts, and it should be available nationwide by the end of 2013. It's expected to be in St. Louis by late summer. FTS handles both factual and legal issues where the IRS and taxpayer are willing to settle but can't reach agreement at the examination level. The mediator can consider hazards of litigation in designing a settlement.

The case will be handled by a FTS official trained in mediation, with a goal to resolve it within 60 days. The mediation must be based on fully developed facts, and there must be at least one year open on the statute of limitations. In the event that full or partial agreement cannot be reached, the taxpayer will retain all appeal rights. In such cases, the mediator will not be involved in the case at the appeals level.

Melody Green, IRS stakeholder liaison, noted information is often available to practitioners through commercial sources before it is posted on irs.gov because the website has an extensive approval process. E-newsletters on irs.gov provide current information, and industry/profession specific pages are good resources for practitioners with clients in the specified industries.

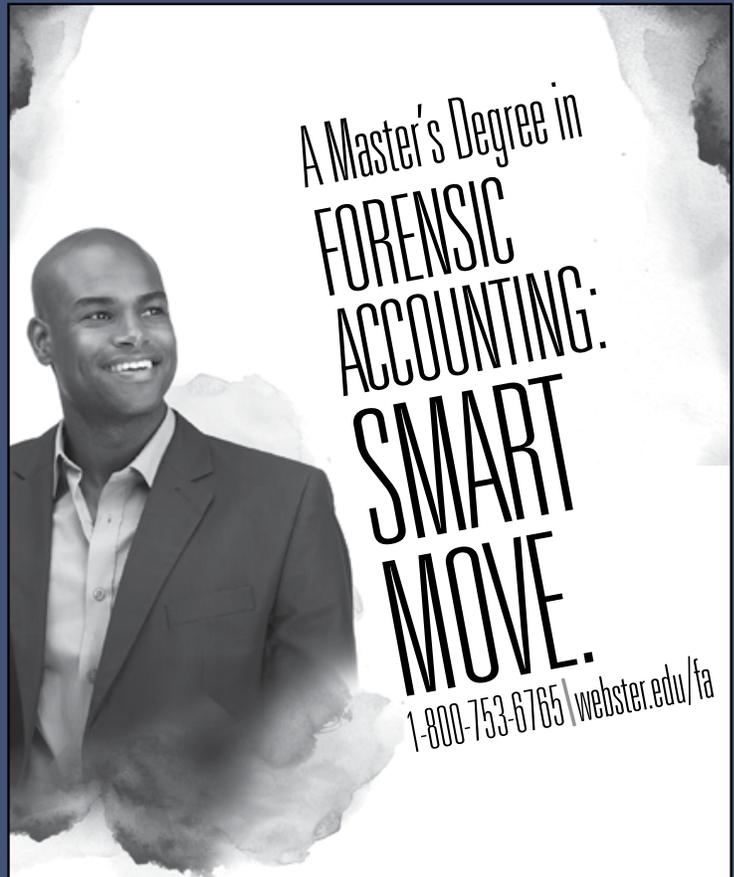
Beverly Morris, collection territory manager, noted the number of collection offices in the St. Louis area has been reduced from eight to seven. She highlighted the difference between a lien "withdrawal" and "release" of lien. Released liens are still reflected on the taxpayers' credit reports. Form 12277 is the preferred vehicle for requesting a notice of lien withdrawal.

Form 433-A and 433-B, Collection Information Statement have been revised. These forms are used by collection to determine if a taxpayer has insufficient financial assets to satisfy an outstanding tax liability. The 2008 versions will be acceptable until June 1, 2013, but use of the revised forms is preferred.

A new online tool, containing an instructional video, will soon be available to pre-qualify clients for Offers in Compromise (OIC) and to estimate the minimal settlement amount.

Visit www.mocpa.org/tax for the IRS' official meeting minutes, along with a directory of key contact numbers.

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