



FROM THE DESK OF MORGAN D. KING NOV 19, 2007

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NEWS & UPDATES

PROFESSIONALS MAY NOW OBTAIN ACCOUNT TRANSCRIPTS ELECTRONICALLY

Circular 230 practitioners have asked the IRS for unlimited access to e-Services. We are now able to grant their request.

Who are Circular 230 Practitioners?

There are three types of practitioners: Attorney, Certified Public Accountant (CPA) and Enrolled Agent.

Attorney means any person who is a member in good standing of the bar of the highest court of any State, territory, or possession of the United States, including a Commonwealth or the District of Columbia.

Certified public accountant (CPA) means any person who is duly qualified to practice as a certified public accountant in any State, territory, or possession of the United States, including a Commonwealth, or the District of Columbia.

Enrolled agent means any person who has earned the privilege of practicing or representing taxpayers before the Internal Revenue Service. Enrolled agents, like attorneys and certified public accountants (CPAs), are unrestricted as to which taxpayers they can represent, what types of tax matters they can handle, and before which IRS offices they can practice.

Why are we doing this?

e-Services increase tax filing efficiency and save valuable time and resources for tax practitioners and the IRS. Our expansion of the e-Services incentive products to a larger audience is due to high demand and continued requests from the tax practitioner community.

What are the e-Services three incentive products?

Disclosure Authorization

Eligible tax professionals can complete disclosure authorization forms, and view and modify existing forms, all online. Disclosure Authorization allows tax professionals to electronically submit Form 2848, Power of Attorney and Declaration of Representative; and Form 8821, Tax Information Authorization. Disclosure Authorization expedites processing and issues a real-time acknowledgement of accepted submissions.



Electronic Account Resolution

Tax professionals using EAR can quickly resolve clients' account problems by electronically sending and receiving inquiries about individual or business account problems, refunds, installment agreements, missing payments or notices. Tax professionals must have a power of attorney (Form 2848 only) on file before inquiring into a client's account. Responses are delivered to a secure electronic mailbox within three business days. Use Disclosure Authorization to submit the Form 2848 to the IRS.

Transcript Delivery System

TDS resolves clients' need for return and account information quickly in a secure, online session. It allows eligible tax professionals, with a power of attorney (Form 2848 only) on file, to request and receive account transcripts, wage and income transcripts, tax return transcripts, and verification of non-filing letters for individual taxpayers and account transcripts for business taxpayers. Use Disclosure Authorization to submit the Form 2848 to the IRS.

For more story and For online registration form -
<http://www.irs.gov/taxpros/article/0,,id=174857,00.html>

IRS HAS 110 MILLION IN REFUND CHECKS LOOKING FOR A HOME

WASHINGTON — The Internal Revenue Service is looking for 115,478 taxpayers who are due refund checks worth about \$110 million after the checks were returned as undeliverable.

The refund checks, averaging about \$953, can be claimed as soon as taxpayers update their addresses with the IRS. Some taxpayers have more than one check waiting.

"Taxpayers should not miss out on getting their money back," said Richard Morgante, commissioner of the IRS Wage and Investment Division. "The IRS makes it as easy as possible for taxpayers to update their addresses and claim their refunds."

The "Where's My Refund?" tool on IRS.gov enables taxpayers to check the status of their refunds. A taxpayer must submit his or her social security number, filing status and amount of refund shown on their 2006 return. The tool will provide the status of their refund and in some cases provide instructions on how to resolve delivery problems.

To go to IRS "Where's My Refund?" page -
<http://www.irs.gov/individuals/article/0,,id=96596,00.html>

Taxpayers can access a telephone version of "Where's My Refund?" by calling 1-800-829-1954.

IRS ISSUES REVISED FORM FOR E.A. RENEWAL

To view and download the amended renewal form click here -
<http://www.irs.gov/pub/irs-pdf/f8554.pdf>

HOUSE PASSES BILL TO END PRIVATE TAX COLLECTION

October 11, 2007

The House passed H.R. 3056 yesterday by a 232-173 vote, despite a threatened White House veto, to end the Internal Revenue Service's private debt collection program. The vote stuck to party lines, with nine Democrats voting against the bill and 22 Republicans voting for it.

The Office of Management and Budget warned that President Bush would veto the bill. The administration has argued that terminating the program would result in the loss of "significant revenue" over the next 10 years and without private debt collection, the tax dollars would probably not be collected by the IRS.

Source: CLLA.org

For more story - http://www.claa.org/newswire/whn.cfm?news_id=657

IRS WARNS OF E-MAIL SCAM SOLICITING DONATIONS TO CALIFORNIA WILDFIRE VICTIMS

WASHINGTON — The Internal Revenue Service today warned taxpayers to be on the lookout for a new e-mail scam that appears to be a solicitation from the IRS and the U.S. government for charitable contributions to victims of the recent Southern California wildfires.

In an effort to appear legitimate, the bogus e-mails include text from an actual speech about the wildfires by a member of the California Assembly.

The scam e-mail urges recipients to click on a link, which then opens what appears to be the IRS Web site but which is, in fact, a fake. An item on the phony Web site urges donations and includes a link that opens a donation form which requests the recipient's personal and financial information.

IRS AND STATES TO SHARE EMPLOYMENT TAX EXAMINATION RESULTS

The IRS and 29 state workforce agencies have entered into agreements to share the results of employment tax examinations. The agreements, part of the Questionable Employment Tax Practice (QETP) initiative, provide a centralized, uniform means for the IRS and state employment officials to exchange data, thereby leveraging resources and encouraging businesses to comply with federal and state employment tax requirements. Find out more in news release IR-2007-184 <http://www.irs.gov/newsroom/article/0,,id=175457,00.html>

IRS LOOKS AT TAX-FRAUD SCHEMES & SCAMS

ABUSIVE HOME-BASED BUSINESS TAX SCHEMES

From the IRS newswire:

Most taxpayers with small businesses accurately report their income and expenses. However:

Schemes involving inflated business expenses, deduction of personal expenses and misuse of purported home-based businesses have become prevalent.

The IRS has become aware of several abusive tax schemes, which involve taxpayers erroneously deducting personal living or family expenses. Examples of these schemes are:

Bogus home-based businesses: taxpayers attempt to create the appearance of having a home-based business - where none actually exists - and deduct personal, living or family expenses.

Legitimate home-based businesses: taxpayers have a legitimate business operated from their home but erroneously attempt to deduct personal living expenses.

These schemes have gained popularity due to aggressive marketing by promoters who sell such schemes as a means to reduce taxes. These schemes are abusive because they manipulate the interpretation of the tax laws.



Some promoters market a package, kit or other materials that claim to show taxpayers how they can avoid paying income taxes but the arguments used have no merit. Abusive promoters typically advise taxpayers to maintain detailed records of their activities and the expenses they incur; however, detailed records do not convert personal, living or family expenses into deductible business expenses.

Expenses must be "ordinary and necessary" in relation to a legitimate business activity, and satisfy all other requirements in order to be deductible business expenses on a tax return. Taxpayers should beware of claims that are too good to be true and seek independent professional tax advice.

For more story - <http://www.irs.gov/businesses/small/article/0,,id=106515,00.html>

FEDERAL COURT PERMANENTLY BARS LAS VEGAS MAN FROM PROMOTING "ASSET PROTECTION" SCHEME

Business Allegedly Helped Customers Evade Taxes

WASHINGTON. – A federal judge in St. Louis has permanently barred William S. Reed, the founder of a so-called "asset protection" business, from preparing fraudulent liens for customers and helping customers conceal their funds by having shell corporations own their bank accounts, the Justice Department announced today.

According to the government's complaint, Reed operated the now-defunct Asset Protection Group Inc. (APGI), which helped customers place sham liens on their property to deceive creditors, including the Internal Revenue Service (IRS). Reed and APGI also allegedly helped customers hide their income and assets by holding their money in bank accounts in the names of shell corporations.

The complaint provides examples of six sham liens totaling more than \$2 million that Reed and APGI allegedly filed for customers who owed nearly \$900,000 in federal taxes. According to the complaint, the IRS has discovered at least 75 APGI customers that have used nominee bank accounts to evade collection of federal taxes.

The government's complaint alleges that Reed and APGI sold their asset-protection services to nearly 2000 people. They allegedly promoted sales by distributing a promotional video called "The Litigation Explosion" featuring Reed and hosted by the actor Robert Wagner.

A copy of the complaint is available at <http://www.usdoj.gov/tax/txdv07636.htm>.

JUDGES GETTING IMPATIENT WITH TAX PROTESTERS?

United States v. Bevans, No. 06-2849 (8th Cir. 11/13/2007) (8th Cir., 2007)

AUTHORITY OF COURT TO ISSUE WRIT OF ENTRY

[See also remarks in "Issues & Answers" below]

Most published opinions from U.S. courts are reasonably lengthy in order to fully explore the issues. Published opinions in even routine cases are typically at least 5, 6, or 15 pages long, and more challenging issues reach 25, 40, or 100 pages.

Below is an excerpt from a recent case that appears to have been filed "pro per" (no attorney) that is no more than 1 page long! The argument was about the authority of a U.S. magistrate to issue writs of entry to seize taxpayer assets for delinquent taxes.

The taxpayer's choice of terminology is typical of "tax protesters'" assertions that the IRS was never authorized by Congress to collect taxes, and etc. Courts have written ad nauseam in response to a multitude of interesting, even clever,



but ultimately without legal foundation, arguments raised by tax protesters. Based on the brevity of this opinion (we quote 90% of it below) it appears this judge, at least, has given up trying to explain why people have to pay taxes.

"This case arises from a writ of entry issued on April 17, 2006, by a United States Magistrate Judge to revenue officer Robert Brown of the Internal Revenue Service. The writ authorized Brown to enter the residence of Jane K. Bevans to seize property in satisfaction of unpaid federal taxes. Based on that writ, revenue agents entered the Bevans home and seized numerous pieces of property.

"Bevans responded to the magistrate judge's order by filing a document captioned, "Motion For Determination of the Basis for Jurisdiction of this Matter by the Magistrate, For a Determination of the Forum, and the Basis for Declaring that the Relief Sought Cannot Be Had in a Miscellaneous Action." This motion essentially asked the magistrate judge to provide an explanation of the jurisdictional basis for granting the writ of execution and for declining to assert jurisdiction to grant Bevans's request for injunctive relief. The magistrate judge entered another order, dated July 12, 2006, explaining that the government's application for the writ of entry set forth the court's authority to grant the writ, that the responsibility of the magistrate judge was to determine whether probable cause exists such that a writ should issue, and that the relevant statutes and rules do not grant a magistrate judge authority to enter injunctive relief of the sort requested by Bevans without the consent of the parties.

"Except where the parties have consented to entry of judgment by a magistrate judge in a civil case, see 28 U.S.C. § 636(c)(3), an order of a magistrate judge is not a final decision of a district court that may be appealed to this court. *United States v. Haley*, 541 F.2d 678, 678 (8th Cir. 1974); *United States v. Cline*, 566 F.2d 1220, 1221 (5th Cir. 1978); *United States v. Reeds*, 552 F.2d 170, 171 (7th Cir. 1977) (per curiam). Accordingly, we lack jurisdiction to consider this appeal, and the case is dismissed."

WHEN THE IRS KNOCKS ON YOUR CLIENT'S DOOR

The U.S. Department of Justice as recently added a policy statement to its Tax Resource Manual in connection with entry on premises of "recalcitrant" taxpayers.

The newly posted guidance appears to caution that IRS collections officers cannot forcibly enter a taxpayer's premises without proper authorization by a District Court or U.S. Magistrate, and that there are several issues that must be satisfied before such authorization may be granted.

This policy does not appear to require exigent circumstances, such as pending concealment of assets or similar conduct. The policy does caution, however, "Nevertheless, the United States Attorney should determine that the taxpayer is, indeed, recalcitrant, and that the revenue officer has been unable to gain voluntary admittance to the property for purpose of seizure." Below is the exact text of this entry:

23. Legal Standard for Orders for Entry to Effect Levy

To effect a Writ of Entry, the Government must establish that the tax has been assessed; IRS has given notice and demand to the taxpayer; the taxpayer has refused or neglected to pay; and a factual basis (probable cause) exists for concluding that property of the taxpayer is located on the premises. See *In re Carlson*, 580 F.2d 1365 (10th Cir.1978); *United States v. Shriver, Jr.*, 645 F.2d 221 (4th Cir.1981). The Government need not establish that there are exigent circumstances. Nevertheless, the United States Attorney should determine that the taxpayer is, indeed, recalcitrant, and that the revenue officer has been unable to gain voluntary admittance to the property for purpose of seizure.

In some districts, judges refer applications for Writs of Entry to the local U.S.



Magistrate Judge. That procedure is permissible under the Federal Magistrates Act, 28 U.S.C. § 636(b). See Mathews v. Weber, 423 U.S. 261 (1976).

In order to effectively support the collection efforts of the IRS, it is important that the United States Attorney review the proposed pleadings and submit them to the court in an expeditious manner.

[added September 2007]

For access to the entire Attorney General Tax Resource Manual, click here -

http://www.usdoj.gov/usao/eousa/foia_reading_room/usam/title6/tax00000.htm

[See also case brief in "Case Updates" above]

CONSULTING WITH MORGAN KING 925-829-6363

ACROSS THE U.S. HELPING PEOPLE WITH DELINQUENT TAX PROBLEMS

California attorney Morgan D. King has been in practice for over 35 years, many of those years dedicated to finding legal remedies for delinquent tax liabilities. He is the author of the acclaimed "King's Discharging Taxes in Bankruptcy," and is currently writing "King's Legal Guide to Delinquent Tax Remedies."

King consults with other tax professionals, evaluating cases and writing expert opinion letters to help guide lawyers, enrolled agents, and accountants with their clients. He also represents taxpayers. Among the services offered are:

- Offers-in-compromise
- Marital transmutation agreements
- Representation at collection due process hearings
- Innocent-spouse defense
- Analysis of tax collection statutes of limitations
- Installment payment plans
- Tax Advocate assistance
- Collection appeals
- Discharge in bankruptcy

Mr. King may represent taxpayers in any state and can refer local counsel if appropriate.

Visit Morgan King's web site, TaxJustice.com, by clicking on his picture at right or the link below.

Or, e-mail him at morgan@TaxJustice.com

[CLICK HERE TO VISIT TAXJUSTICE.COM](#)

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KEEP CURRENT on news, new case rulings, issues and answers, and updates on relevant law and procedure For tax professionals who help delinquent taxpayers find legal remedies for tax debts.

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