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Taxation

New IRS Procedures for IDRs in Muni Audits is More Issuer-Friendly

By Evan Fallor
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WASHINGTON – The Internal Revenue Service's Tax Exempt and Government Entities Division has released a new process for its auditors that it hopes will expedite information document requests sent to municipal securities issuers.

"To carry out our examination responsibilities, maximize taxpayer communication, and increase transparency and internal manager/agent collaboration we have established uniform procedures for the IDR and IDR enforcement process," TE/GE Commissioner Sunita Lough wrote in the four-page description of the new process released Monday. "This process seeks to overcome issues that lead to prolonged cycle time and undue taxpayer burden."

IDRs are the "primary tool used for soliciting information, in writing, during the course of an examination," she wrote in the notice.

Lough said the new process will be followed when preparing, issuing and following up on an IDR. The new process will go into effect on April 1, 2017. TE/GE will provide training to agents under the new process prior to the implementation.

Tax controversy lawyer Brad Waterman said he is pleased with the new procedure, which he believes is partly based on the IRS' Large Business and International Division's approach to IDRs.

"It's a significant step in the right direction in terms of the relationship between TE/GE and issuers," Waterman said. "I think it's a very positive development following LB&I's lead with respect to IDRs … providing explanations to taxpayers as to why information is being requested and reaching agreements with the taxpayer."

Under the new process, auditors will discuss with the issuer the tax issue in question as well as the information needed prior to issuing the IDR, which is used to gather information during an audit.

Before the IDR is issued, the auditor and taxpayer should agree on a response or appointment date, Lough said.

Auditors will mail initial contact letters to taxpayers when a return is selected for audit. After 10 days, the auditor can then call the taxpayer to discuss the tax issue in question as well as any items to be requested on the IDR.

After the IDR is issued and the taxpayer has responded, the IRS will then mark the response as complete.

Should a taxpayer not respond, they will be allowed up to two extensions, each of which can be as long as 15 business days. If the information requested is not received after the second extension, the auditor will begin the enforcement process, which includes a delinquency notice, pre-summons letter and summons.

If the taxpayer responds to the delinquency notice, the auditor will review the response within 10 days and the enforcement process is ended.

Should the taxpayer not respond, a pre-summons notice will be issued advising the taxpayer that the agency will issue a summons unless the missing information is provided.

If the taxpayer still does not respond, the agent will hold an internal meeting at the IRS within 10 business days and issue a summons.

IRS officials said the new process will provide for more open communication between the agency and taxpayers as well as reduce burden on taxpayers and encourage expedited issue resolutions. It will also allow the IRS to provide its agents with consistent timelines to review IDR responses, they added.

"The new process requires the examiners' managers to be actively involved early in the process and ensures that IRS counsel is prepared to enforce IDRs through the issuance of a summons when necessary," Lough said.

She also sent a two-page internal memo to auditors outlining best practices, which suggest that auditors mail the initial IDR along with the initial contact letter as well as prepare a separate IDR for each issue.

The new process comes three years after the IRS began including questions about post-issuance compliance procedures in IDRs.
