

## CLIENT ALERT

### Deputy Commissioner (LB&I) Flax and Deputy Division Counsel (International) Askey Discuss Recent Developments at LB&I at Crowell & Moring Tax Seminar

Sep.26.2019

Nikole Flax, Deputy Commissioner of the IRS Large Business & International (LB&I) Division and Elizabeth Askey, Deputy Division Counsel (International) of the IRS LB&I Division, spoke on September 12, 2019, at Crowell & Moring LLP regarding recent developments at LB&I.

Ms. Flax discussed LB&I's Large Corporate Compliance program. She explained that it is a total replacement of the Coordinated Industry Case (CIC) program. She said that there are still some references to the CIC program in the Internal Revenue Manual, because some of those audits are still ongoing and it can take a while to update IRS online resources. She explained that the IRS first applies automated pointing criteria to LB&I taxpayers to determine the largest, most complex taxpayers. Then, the IRS runs an algorithm against returns to determine which taxpayers will end up in the Large Corporate Compliance program.

Ms. Flax also discussed LB&I campaigns and explained that campaigns are just one piece of the compliance puzzle. She said that traditional audits and other work will not go away, but that issue campaign audits will continue to grow as a percentage of overall LB&I audits. She said that taxpayers can expect to see additional campaigns as the IRS begins to audit new issues stemming from the application of Tax Cuts and Jobs Act provisions.

Ms. Flax also discussed the Compliance Assurance Process (CAP) program. This year, CAP will begin to accept new candidates and reopen the CAP program. CAP will also evaluate whether existing CAP taxpayers should remain in the program. Applications are due at the end of October, and the IRS will notify taxpayers in January if they have been selected. Ms. Flax explained that LB&I currently spends about 5 percent of its time on CAP audits and will have to determine how much time will be allocated to the program in the future. One change to the CAP program is that CAP is going to hold taxpayers accountable and require them to follow the longstanding rules against keeping tax years open. Ms. Flax noted that the IRS has posted on its website ([irs.gov](http://irs.gov)) a number of materials relating to CAP that discuss, among other things, CAP eligibility and suitability, the application and selection process, and frequently asked questions.

Ms. Askey explained the role of the Office of LB&I Division Counsel at the IRS. LB&I Division Counsel supports LB&I programs and oversees the litigation and other activities of approximately 280 field attorneys and paralegals nationwide. She stated that LB&I Division Counsel headquarters has a staff of special counsels with subject matter expertise. Special counsels liaise with IRS field attorneys, work on special projects, get involved in cases of particular significance, and review published guidance.

Ms. Askey also discussed the role of Chief Counsel attorneys in the designation for litigation process and in drafting NOPAs. She said that the decision to designate a case for litigation ultimately is approved by the Chief Counsel himself but that other Office of Chief Counsel executives are involved in the process. With respect to NOPAs, Ms. Askey stated that field attorneys have been instructed that they generally should not be drafting NOPAs themselves, but are available for consultation during the drafting process.

For more information, the 33rd Annual Crowell & Moring LLP Managing Tax Audits and Appeals Seminar materials [may be found here](#).

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

**David B. Blair**

Partner – Washington, D.C.

Phone: +1 202.624.2765

Email: [dblair@crowell.com](mailto:dblair@crowell.com)

**Carina C. Federico**

Counsel – Washington, D.C.

Phone: +1 202.654.6712

Email: [cfederico@crowell.com](mailto:cfederico@crowell.com)