



# **Managing Tax Audits and Appeals**

**October 6, 2017**



# Recent Developments in the Law of Privilege and the Work Product Doctrine

Robert Willmore, Crowell & Moring



# **Section 6901**

## **Transferee Liability**

2017 Managing Tax Audits and Appeals Seminar

Charles C. Hwang  
October 6, 2017

# Section 6901

---

For tax liabilities within its scope, this Code section provides a procedure for the liability to be “assessed, paid, and collected in the same manner and subject to the same provisions and limitations” with respect to the transferee as with respect to the person who owes the underlying taxes.

The alternative would be for the IRS to sue in state court as a creditor, a less desirable forum and procedure from the Government’s point of view.

In theory, section 6901 merely provides a federal forum and does not change the ambit of liability.

# Section 6901

---

Applies to: income, gift, and estate tax liabilities, and some other tax liabilities in certain circumstances.

Applies to liabilities “at law or in equity.”

“At law” basically means contractual or statutory liability and “in equity” refers to court-based doctrines of liability.

# Section 6901

---

Statute of limitations: original limitations period plus one year.

Transferee of transferee: first transferee's limitations period plus one year, but not to exceed three years after the original limitations period runs.

If a court proceeding has begun against the original taxpayer or the last preceding transferee, the Government has one year after the "return of execution" in that proceeding.

# Liability is a Matter of State Law

---

“The Government’s substantive rights in this case are precisely those which other creditors would have under [state] law.” Commissioner v. Stern, 357 U.S. 39, 47 (1958).

Thus, the question of whether a person is a “transferee” is also a question of state law.

Of course, whether the underlying tax liability is owed is a matter of federal law.

# Liability at Law

---

There is liability at law if the purchase agreement expressly provides that buyer assumes the tax liability.

Lest assumption be read into the contract, it is best to expressly disclaim assumption.

Another example of assumption by operation of law is a statutory merger.

To the extent that fraudulent conveyance law is embodied in a statute, such as the UFCA, liability for fraudulent conveyance is a liability at law.



# Liability in Equity

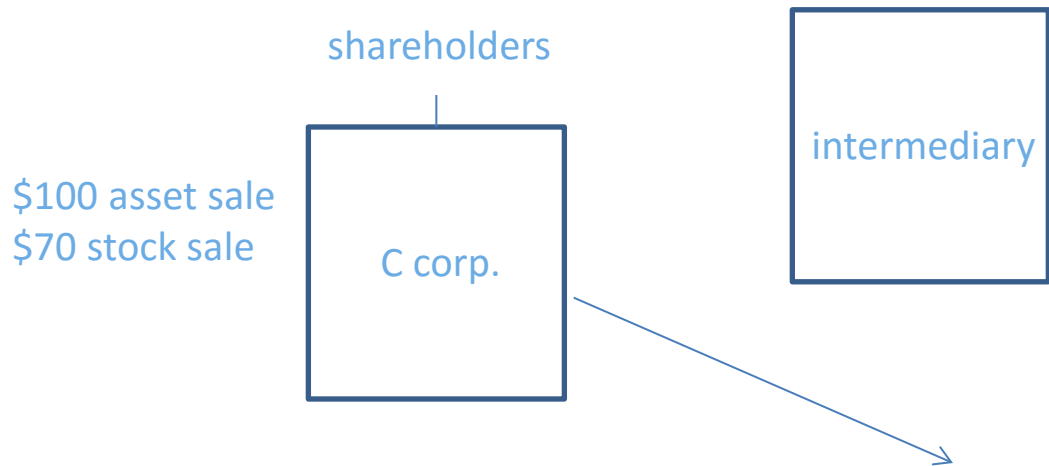
---

## Successor liability

- Need to identify a transferor and a transferee
- State law is amorphous – there are situations where a good faith purchaser for value gets stuck with some or all of the transferor's liabilities.

# Midco Cases

---



# Midco Cases

---

shareholders

\$90

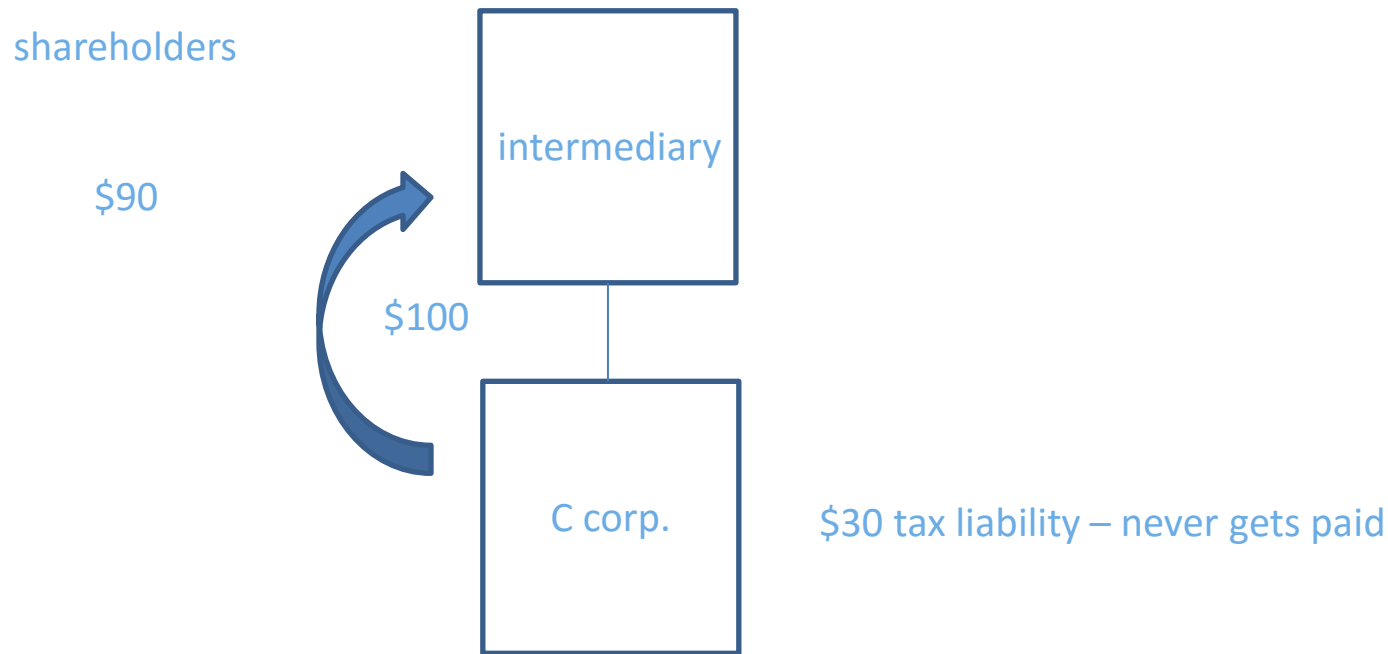


Buyer

asset sale \$100

# Midco Cases

---



# Midco Transactions Are Listed Transactions

---

IRS Notice 2001-16

The following theories are suggested:

Midco is seller's agent

Midco is buyer's agent

The transaction is otherwise characterized to treat the shareholders as selling assets, or the target as selling assets while owned by s/hs

# Midco Cases

---

In Diebold Foundation, 736 F.3d 172 (2013), the 2<sup>nd</sup> Circuit held that actual knowledge of a plan to defraud creditors or constructive knowledge of such a plan allowed the Midco transactions to be collapsed, so as to impose transferee liability on Sellers (despite the fact that Sellers sold the target company before the corporate tax liabilities arose).

This collapsing was not driven by a tax analysis but an application of NY fraudulent conveyance law.

The customary contractual allocation of tax liabilities in the purchase agreement did not relieve Sellers of a duty to inquire further into the circumstances of the transaction.

# Midco Cases

---

In Starnes, 101 TCM 1283 (2011), the Tax Court, applying North Carolina law, held that the taxpayers had neither actual knowledge of a plan to defraud creditors nor constructive knowledge of such a plan, so that the collapsing of the Midco transactions was not allowed. The Tax Court apparently took into account the lack of sophistication of the taxpayers.

The taxpayers received representations from Buyer that it would pay the corporate level tax.

This case was affirmed by the 4<sup>th</sup> Circuit, 680 F.3d 417 (4<sup>th</sup> Cir. 2012).

# Midco Cases

---

In Frank Sawyer Trust, 712 F.3d 597 (1<sup>st</sup> Cir. 2013), the 1<sup>st</sup> Circuit rejected a collapsing argument, but got to the same result by adopting a “transferee of a transferee” theory that was not even argued.

The basic point was that the Intermediary, which obtained cash from the C corporation target, had liability for the target’s tax debts as a transferee. The 1<sup>st</sup> Circuit held that if the Intermediary overpaid for the target’s stock, to the extent of the overpayment, the former shareholders of target owed the IRS.

This approach seems to ignore the **timing** of these transactions.



# Caveat Vendor!

---

Lessons from the case law, which continues to develop:

Do the due diligence on who the buyer is and what the buyer's plans are for the business post-sale.

Where appropriate, get representations regarding those issues. (But representations cannot be counted on to override knowledge or constructive knowledge.)

If a deal is too good to be true absent tax fraud, you might be deemed to have constructive knowledge.

# Caveat Emptor!

---

Even a good faith purchaser for value can be stuck with successor liability.

Each state has a different approach.

# Questions?

---

Charles C. Hwang  
Crowell & Moring LLP  
chwang@crowell.com  
(202) 624-2626





# **Managing Tax Audits and Appeals 2017**

**Washington, D.C.**

October 5-6, 2017



# IRS Appeals Changes

## New Appeals Procedures and Approaches

The only constant is change.  
Heraclitus (535-475 BC)

# IRS Appeals

---

## Agenda

- Introduction
  - Appeals Principles
  - Appeals Organization
- Changes to Appeals Procedures
  - Exam presence at Appeals Conferences
  - Face-to-Face Conferences
- New Limitations on Appeals Settlement Authority
- AJAC In Practice

# IRS Appeals

---

- Designed as “independent” settlement forum

- “Mission” of IRS Appeals: To settle cases

To resolve tax controversies, without litigation, on a basis which is fair and impartial to both the Government and the taxpayer, and in a manner that will enhance voluntary compliance and public confidence in the integrity and efficiency of the Service

- Consider “hazards of litigation”
- Do not consider costs of litigation (no nuisance settlements)



# IRS Appeals

---

## Operating Principles

- Act in accord with the Taxpayer Bill of Rights in every interaction with taxpayers.
- Provide a prompt conference and a prompt decision in each case. A prompt conference and decision enable the taxpayer to know with the least amount of delay, the final decision of the Service as to the amount of tax liability, or other issue in contention, and results in getting into the Treasury additional revenue involved at the earliest practicable date.
- Make a high-quality decision in each case. A decision of high quality is required in each case and should represent judicious application of Service policy and sound legal principles.
- Effect a satisfactory number of agreed settlements. It is a fundamental purpose of the Appeals function to effect settlement of contested cases - on a basis fair to both the Government and the taxpayer - to the end that the greatest possible number of nondocketed cases is closed in nondocketed status and the greatest possible number of docketed cases is closed without trial.

(IRM 8.1.1.1.2)



# Taxpayer Bill of Rights

---

## Internal Revenue Code § 7803(a)(3):

In discharging his duties, the Commissioner shall ensure that employees of the Internal Revenue Service are familiar with and act in accord with taxpayer rights as afforded by other provisions of this title, including –

- the right to be informed
- the right to quality service
- the right to pay no more than the correct amount of tax
- **the right to challenge the position of the Internal Revenue Service and be heard**
- **the right to appeal a decision of the Internal Revenue Service in an independent forum**
- the right to finality, to privacy, to confidentiality, to retain representation
- the right to a fair and just tax system

# Prohibition on *Ex parte* Communications

---

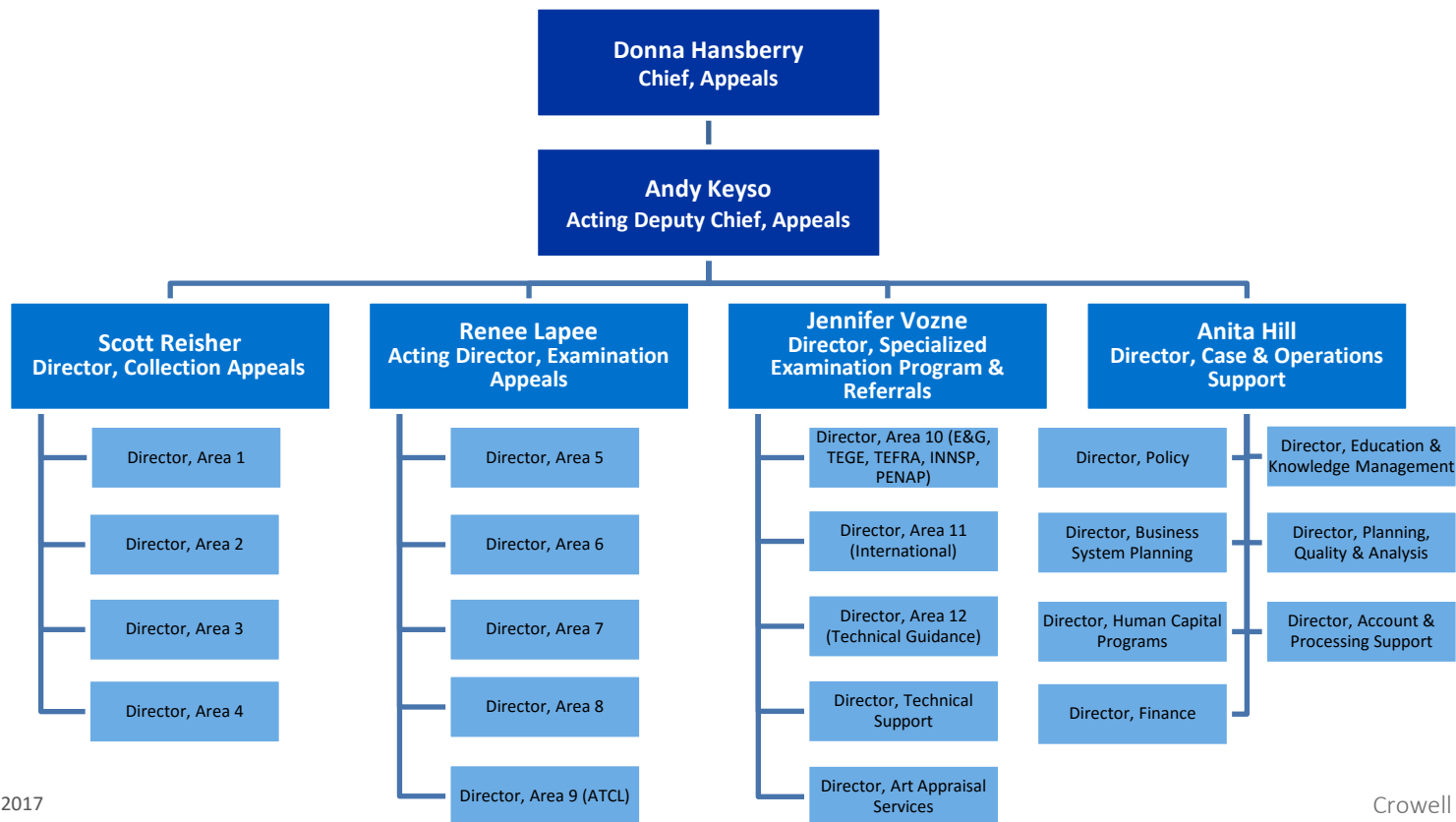
- *Ex parte* communications between Appeals and IRS personnel in other functions (i.e. Exam) are prohibited (see IRM 4.2.7)
- Required by the Restructuring and Reform Act of 1998 (with the Taxpayer Bill of Rights) to assure Appeals independence
  - Taxpayer Bill of Rights prohibits *ex parte* communications “to the extent such communications appear to compromise the independence of appeals officers”
- Appeals may discuss case with Exam in presence of taxpayer (or representative) or with their consent (or opportunity to participate) (Rev. Proc. 2012-18, superceding Rev. Proc. 2000-43; IRM 8.1.10)

# Appeals Reorganization

---

- Formerly organized geographically, with specialty operations separated
- New organization, divides between Examination Appeals, Collection Appeals, and Specialty Appeals
  - Specialty: E&G, TEFRA, Penalties, International, Technical Guidance, Art Appraisal Services

# IRS Appeals Organization



# Changes in Appeals Workforce

---

	FY 2014	FY 2014	FY 2015	FY 2016
Hearing Officers	924	852	768	705
Total Staffing	1,708	1,708	1,569	1,449
Cases Receipts	123,113	113,608	113,870	114,362

# Exam Presence at Appeals Conference

---

## Background

- Appeals Officers strongly encouraging use of Rapid Appeals Process (RAP) or Fast Track Settlement
  - Both programs designed for participation of Exam in settlement
  - RAP is Appeals mediation between Exam and Taxpayer
- Appeals Officers may also request that Exam be permitted to stay for Appeals Conference
  - Taxpayers could refuse, at their peril
- October 2016, IRM amended to give Appeals Officers discretion to include Exam or Counsel in Appeals Conference
- May 1, 2017, Appeals Initiative for ATCLs to include Exam in conferences

# Exam Presence at Appeals Conference

---

## Current Status

- IRM provides that Appeals has discretion to invite Exam or Counsel to attend Appeals Conference (IRM §§ 8.6.1.4.4, 8.26.5.4.7)
  - Prohibition against *ex parte* communications not violated if all participants at Conference
  - Appeals may also request that other experts attend
- Frequently Asked Questions published by IRS
  - Expect to routinely ask Exam to participate
  - Help Appeals Officer focus rapidly on most significant aspects of dispute
  - Not, RAP, no mediation process
  - Include only Exam team members dealing with issues at stake
  - Invite Counsel consistent with old rules
- Appeals publicly defended its new policy at ABA meeting on September 21, 2017 (Andrew Keyso, Acting Deputy Chief, Appeals)

# Exam Presence at Appeals Conference

---

## Pros and Cons

- IRS Position
  - Assists Appeals to understand Exam position
  - Allows Appeals to test Exam credibility
- Taxpayer Position
  - Attendance by Exam/Counsel hurts independence
  - Exam has stated its case, and is charged with applying IRS view of the law
  - New facts and new issues likely to arise
  - Slows down conference
  - Increases costs



# Exam Presence at Appeals Conference

---

- Attendance by Exam/Counsel may violate procedural regulations
  - Treas. Reg. § 601.106(c) vests settlement authority in Appeals
  - Proposed Treas. Reg. § 601.106(c)(6) states counsel generally not attend
- Public Objections by Taxpayer representatives
  - ABA Letter to Commissioner, May 7, 2017
  - Taxpayer Advocate, June 21 Blog article
  - AICPA testimony, September 13, 2017, House Ways & Means Hearing

# Face-to-Face Conferences

---

## IRS's Changing Positions



# Face-to-Face Conferences

---

## IRS's Changing Positions

- Traditionally if Taxpayer requested face-to-face conference in Protest, it was granted
  - 59% of taxpayers requested face-to-face
  - IRM 8.1.1.1.3 provided limited exceptions for dangerous or frivolous situations
- October 1, 2016, IRM changed (consistent with previous policy change) to default to telephone conferences and offer virtual delivery service (VDS) conference if available (IRM 8.6.1.4.1.)
- “In-person” conferences to be permitted, considering facts and circumstances:
  - Substantial books and records not easily referenced with page numbers or indices
  - Credibility important
  - Special needs (e.g., hearing impairment)
  - Numerous witnesses
  - Rapid Appeals Process (RAP)
  - Specific IRM section calls for an in-person conference for issue

# Face-to-Face Conferences

---

## IRS Rationale

- Better understanding of issues
- Reduced cost (short term?)
- Faster resolution
- More consistency
- Some perceived “abuse” by taxpayers requesting in-person conference to move case from Campus Appeals to Field Appeals (where Field Appeals Officer was not specialist)

# Face-to-Face Conferences

---

## Taxpayer Position

- Significant Taxpayer objections
  - Right to be heard
  - Adversarial atmosphere
  - Difficult to convince Appeals Officer, understand Appeals Officer's concerns
  - New controversy to open Appeals Conference: whether to allow face-to-face
  - Proper solution is better case development and presentation by Exam at conclusion of audit
- Public objections by taxpayer representatives
  - ABA Letter to Commissioner, May 7, 2017
  - Taxpayer Advocate, Annual Report to Congress, MSP #14
  - AICPA (and other) testimony, September 13, 2017, House Ways & Means Hearing

# Face-to-Face Conferences

---

## Current IRS Position

- September 15: IRS Announces moving back to in-person Appeals Conferences  
(Andrew Keyso, Acting Deputy Chief of Appeals)
- Applies to Field Cases only
  - Not apply to Campus cases (which are majority of Appeals cases)
- What is next?



# Virtual IRS Appeals Conferences

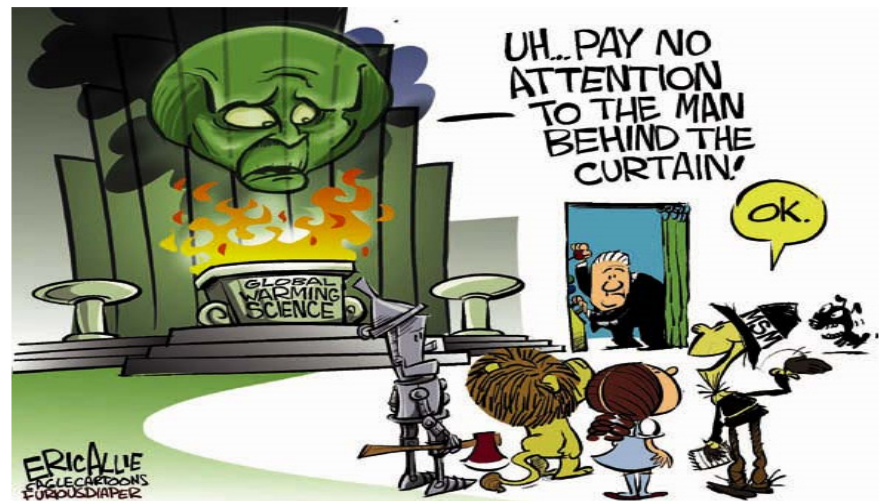
- “Virtual Service Delivery” (VSD) via web-based screen sharing service (IRM 8.6.1.4.5)
- Appeals argues equivalent to face-to-face
- Must use IRS customer-facing VDS
  - Customer-facing VSD sites include some IRS posts of duty, partner sites, and two low income taxpayer clinics
  - Taxpayer must live within 100 miles from customer-facing site
- VDS available at IRS Campus for IRS use only

**Customer-Facing Sites**

Location Type	Address
IRS	949 E. 36th Avenue - Anchorage, Alaska 99508
IRS	550 West Fort Street - Boise, Idaho 83724
IRS	700 E. San Antonio - El Paso, Texas 79901
Partner	7 N. 31st Street, Billings - Montana 59101
IRS	700 W. Capital, Little Rock - Arkansas 72201
IRS	51 S.W. First Avenue - Miami, Florida 33130
IRS	7180 9th Ave. North, Pensacola - Florida 32504
Partner	721 N. Cincinnati Street, Spokane - Washington 99202
LITC	Oakridge, Tennessee
LITC	Seattle, Washington

# Appeals Settlement Authority

- Appeals settlement authority is eroding
  - ATCL Manager concurrence
  - Technical Specialists / Subject matter experts
  - Limitation on settlements for certain positions taken by National Office
  - Authority to deny Appeals in Tax Court
- Advantage of IRS Appeals over court is no longer as clear





# Appeals Settlement Authority

---

## ATCL Review by Manager

- Generally, ATCL has settlement authority, while proposals by other Appeals Officers are subject to review and approval
- Appeals has added a requirement for the ATCL Manager to concur in settlements by an ATCL (Jan. 12, 2017, Interim Guidance)
  - Technically, now require ATCL Manager to sign closing documents
  - ATCL Manager may “propose changes”
  - If ATCL does not agree with changes, the Area Director resolves issues
- Concerns that ATCL settlement authority would be further limited have not been realized
- Thought to be a response to a Treasury Inspector General for Tax Administration (TIGTA) Report (July 30, 2015) criticizing Appeals’ documentation of penalty abatement cases and suggesting more managerial oversight

# Appeals Settlement Authority

---

## Appeals Coordinated Issues / Appeals Settlement Guidelines

- Appeals settlements, including by an ATCL, are subject to review and concurrence by the “Technical Specialist” if the settlement includes Appeals Coordinated Issues
- Informally, also have national “Subject Matter Experts,” and it appears to be policy that they be consulted
- Overall, trend is for Appeals and Appeals Management to seek consistency as much as possible
- Issues:
  - Lowers discretion
  - Lack of transparency
  - Interferes with settlement

# Appeals Settlement Authority

---

## Appeals Coordinated Issues / Appeals Settlement Guidelines

- The Appeals Settlement Guidelines are published on the IRS website (without the key analysis or recommendations): <https://www.irs.gov/compliance/appeals/appeals-settlement-guidelines-asg>
  - Permits identification of issues likely to be subject to centralized review and the analysis likely to be preferred by IRS Appeals
  - Examples:
    - Section 118 State and Local Tax Incentives
    - Section 118 Non-Shareholder Contributions to Capital
    - Subchapter K Partnership Anti-Abuse Regulation
    - R&E Credit (number of topics)
- Names of Coordinators, Technical Specialists also published
  - Either Maggie Harris or Joe Ali is listed for all 176 issues

# Appeals Settlement Authority

---

## Settlements Contrary to Published IRS Positions

- Generally Appeals has authority to fully or partially concede an issue based on litigating hazards, even if contrary to an IRS Ruling, TAM, or other guidance (IRM 8.6.3.3)
- Appeals may no longer settle an issue contrary to a National Office ruling on issues reviewed by a court under an “abuse of discretion” standard, except with approval of the National Office
  - Consent to changes in accounting methods
  - Requests for 9100 relief
- Unclear why hazards settlements should not apply in such circumstances as well
  - Risk that IRS could expand scope of limitations
  - Seems contrary to Rev. Proc. 2012-18 (permitting *ex parte* communications only if not on substantive issues affecting taxpayer’s tax liability) and Treas. Reg. §601.106(f) (imposing Circular 230 duty on Appeals to determine correct application of law)

# Appeals Settlement Authority

---

I expect you all to be independent,  
innovative, critical thinkers who will  
do exactly as I say!



# Availability of Appeals

---

## Sound Tax Administration

- Rev. Proc. 2016-22 provided an update to Appeals procedures for cases docketed in Tax Court
  - Generally, automatic referral to Appeals if not previously considered and taxpayer agrees
  - Appeals may be denied for cases Designated for Litigation
  - New provision: Appeals may be denied in cases where “not in interest of sound tax administration”
- Concern that may be applied to deny access to Appeals more frequently
- Designation for Litigation has procedures to allow taxpayers to seek to avoid designation

# Appeals Judicial Approach and Culture Project (AJAC)

---

- Principles for Non-docketed cases:
  - Appeals will not consider new facts not presented to Exam
  - Appeals will not raise new issues not considered by Exam

(See IRM 8.6.1.6 (New Issues and Reopening Old Issues); Appeals Policy Statements 8-2 and 8-3 (IRM 1.2.17))

# AJAC: New Issues at Appeals

---

## “Clarification” of Rules

- Appeals will not raise new issues not considered by Exam or reopen previously agreed issues
- Taxpayer can raise new issues or new theories:
  - Appeals can consider (without developing new facts)
  - Appeals can request review and comment from Exam
- Clarification in Frequently Asked Questions:
  - Appeals Officer may consider legal theories not raised by either party in considering hazards
  - Will not develop additional evidence not in the case file
  - If case is returned to Exam for consideration of new facts or legal argument, Exam may revisit old issues or raise new issues at its discretion



# AJAC: New Facts at Appeals

---

- Appeals will not engage in fact-finding
- Acknowledgement of Facts IDR aimed at ensuring that Appeals is not considering new facts
- New information or evidence means
  - Not shared with Exam
  - In view of Appeals Office, merits additional analysis or investigative action
  - New information provided after NOPA or with Protest may extend Exam (possible additional IDRs)

# Appeals Statute of Limitations Policy

---

- Appeals: Minimum 365 days remaining when case is received by Appeals (plus 30 days to process)  
(IRM 4.8.10.12.1)
- Referral to Exam for fact assistance: minimum 210 days remaining when Exam receives the case  
(IRM 8.6.1.6.5)
  - Not consider new fact information if not refer to Exam because of statute of limitations
- Mediation: 12 months remaining at close of mediation session  
(IRM 8.26.5.4.5.1)

# Joint Committee Review

---

- Joint Committee Review required for refunds in excess of \$5 million for C corporations (\$2 million in other cases)
- Objection by Joint Committee requires written response by Appeals  
(IRM 8.7.9.9.2 Staff Review Memorandum)
  - Appeals front office now prepares staff review memo, with input from Appeals Officer assigned to case
- Appeals has authority to resolve
  - Review process set forth at IRM Exhibit 4.36.3-3
  - Can request meeting with Chief of Appeals and Joint Committee staff representative

# ADR and IRS Appeals

---

## Procedural Alternatives Summary

- Fast track settlement at Exam
- Appeals
- Rapid Appeals Process
- Appeals Mediation

# ADR and IRS Appeals

## Taxpayer Advocate Reports that ADR Is Declining

- 25% decline in ADR overall
- Fast track settlement works, but use is declining
  - Over 100 cases in previous years, 65 in 2016
- Post-Appeals mediation does not work

ADR Program	Receipts	Settlements	Settlement Percentage	Average Days to Settlement
Fast Track Settlement – LB&I	65	70	108%	72
Fast Track Settlement – SB/SE	142	105	74%	51
Fast Track Settlement – TE/GE	17	11	65%	55
Fast Track Mediation	0	0	n/a	n/a
Post Appeals Mediation – Non-Collection	68	9	13%	59
Post Appeals Mediation – Collection	14	2	14%	124
<b>Total</b>	<b>306</b>	<b>197</b>	<b>64%</b>	<b>60</b>

Fiscal Year	Receipts	Settlements	Settlement Percentage
2014	413	310	75%
2015	383	232	61%
2016	306	197	64%

A large graphic on the left side of the slide. It features a hand holding a large, stylized question mark. The background is a dark blue gradient, and the question mark is white with a slight shadow. The hand is positioned as if holding the question mark from below.

## Questions?

**David J. Fischer**  
**Crowell & Moring LLP**  
**[dfischer@crowell.com](mailto:dfischer@crowell.com)**  
**(202) 624-2650**



# Developments in Tax Accounting

# IRS Aggressive Approach to Tax Accounting

---

## The IRS's Aggressive Approach is Demonstrated in Multiple Ways

- An example of the IRS's approach is its handling of § 199.
  - IRS guidance narrowly limits benefit in software & contract manufacturing.
  - Treasury has issued proposed regulations contrary to Congressional intent to support the IRS's narrow interpretation of the § 199 benefit.
  - IRS Appeals Issue Specialists have prevented reasonable settlements.
  - Accordingly, IRS is litigating multiple cases on each issue.
  - The IRS may continue to litigate even in the loss of cases.



# IRS Aggressive Approach to Tax Accounting

---

## The IRS's Aggressive Approach is Demonstrated in Multiple Ways

- Another example of the IRS's Approach is its handling of § 118.
  - The IRS changed its historic position to narrowly limit the benefit of § 118.
  - IRS Appeals Issue Specialists have prevented reasonable settlements.
  - IRS is litigating its narrow interpretation.
  - The IRS may continue to litigate even if it loses a case.

# IRS Aggressive Approach to Tax Accounting

---

## The IRS's Aggressive Approach is Demonstrated in Multiple Ways

- Another example of the IRS's Approach is its handling of the research and development credit with regard to internal use software (IUS).
  - Treasury issued favorable regulations on IUS which were intended to exclude significant software from the IUS rules.
  - The IRS, however, is taking a very narrow interpretation of those regulations that would make nearly all software IUS and would apply a narrow interpretation of what IUS qualifies for the research credit.
  - It is likely that the controversy that Treasury sought to resolve will continue.

IRS  
AUDIT DIVISION



"Want to make it double or nothing?"

# IRS Aggressive Approach to Tax Accounting

---

## The IRS's Aggressive Approach is Demonstrated in Multiple Ways

- Another example is its non-acquiescence in multiple cases.
- The IRS has non-acquiesced in seven cases in the last year, and five of the seven were tax accounting cases.
  - *Giant Eagle* – IRS won't follow outside of the 3<sup>rd</sup> Circuit and won't grant method changes to allow present deduction of cost of rewards program.
  - *Stine* – IRS won't treat building as placed in service when it is fully functional, rather it must be open for business.
  - *Shea Homes* – IRS will require, for purposes of CCM, taxpayer to look to completion of each home, not the entire development.
  - *Bartell* (LKE using intermediary) and *Burnett Ranches* (use of cash method)

# IRS Aggressive Approach to Tax Accounting

---

## The IRS's Aggressive Approach is Demonstrated in Multiple Ways

- Another example is the IRS National Office's control over Appeals/Field granting certain accounting method changes.
  - Where the IRS National Office denies a method change requested by a taxpayer, the IRS National Office retains control over the accounting method change request and the Field has no authority to make the accounting method change and Appeals has no authority to settle the issue.



*"Hi. This is Ed, over at the I.R.S., just checking to see how you're feeling after your audit."*

# Accounting Method Changes

---

## New revenue recognition guidance issued by FASB and IASB (ASC 606)

- Goals:
  - Improve matching of revenue recognition with costs associated with the services performed or goods delivered.
  - Provide a comprehensive revenue standard across all companies and industries.
- Effective for public companies beginning after December 15, 2017.
- Non public entities must adopt starting the fiscal year periods after December 15, 2018.
- Tax Implications:
  - Creates diverging treatments between tax and financial accounting
  - Method changes required if the approach is to continue to follow the new book method

# Accounting Method Changes

---

## New revenue recognition guidance issued by FASB and IASB (ASC 606)

- IRS requested comments regarding the impact of the new revenue recognition standards on accounting methods.
  - AICPA Comments
  - ABA Comments
- New revenue recognition standards may create particular challenges for taxpayers who defer advanced payments under Rev. Proc. 2004-34.
  - Deferral of advanced payments is based on how revenue is recognized for book purposes.



# Accounting Method Changes

---

## Tax Accounting Implications of the Bipartisan Budget Act

- How and when section 481(a) adjustments are applied:
  - Which year?
  - How is the adjustment pushed down to partners if no push-out election is made?
  - Does the adjustment retain any of its character?

# Questions?

---

**Dwight Mersereau**  
**(202) 624-2856**  
**[dmersereau@crowell.com](mailto:dmersereau@crowell.com)**



**Neville Jiang**  
**(202) 220-2126**  
**[nevjiang@deloitte.com](mailto:nevjiang@deloitte.com)**



**Questions?**

**Thank You For Attending**

## crowell.com

Crowell & Moring LLP is an international law firm with approximately 500 lawyers representing clients in litigation and arbitration, regulatory, and transactional matters. The firm is internationally recognized for its representation of Fortune 500 companies in high-stakes litigation, as well as its ongoing commitment to *pro bono* service and diversity. The firm has offices in Washington, D.C., New York, Los Angeles, San Francisco, Orange County, London, and Brussels.

© Crowell & Moring LLP 2017