

# IRS ISSUES

# 8



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## Learning Objectives

After completing this session, participants will be able to perform the following job-related actions:

- ✓ Explain the changes to Form 2848, Power of Attorney
- ✓ Explain which types of practitioners can represent taxpayers before the IRS
- ✓ Order different types of taxpayer transcripts
- ✓ Request a change in the location of an audit
- ✓ File an appeal with the Appeals Office
- ✓ Explain how to detect and report identity theft
- ✓ Explain the components of the IRS Future State Initiative and the Early Interaction Initiative

## Introduction

This chapter discusses the new Form 2848, Power of Attorney and Declaration of Representative, which reflects the 2016 changes in the requirements to represent a taxpayer before the IRS. It explains the five different types of transcripts and how to order those transcripts by phone, by mail, or online. It also explains how to request a change in location of an audit, and when and how to request an Appeals Office conference. Finally, this chapter discusses steps that a tax practitioner can take to help the taxpayer detect and report identity theft, and two IRS initiatives designed to improve tax administration and increase payroll tax reporting and payment compliance.

**ISSUE 1: FORM 2848, POWER OF ATTORNEY AND DECLARATION OF REPRESENTATIVE**

This section discusses the revised Form 2848, ongoing use of prior versions of the form, continuing effectiveness of forms already on file, and acts authorized under Form 2848.

Form 2848, Power of Attorney and Declaration of Representative, grants a taxpayer's representative the right to represent the taxpayer in tax matters before the IRS. The IRS issued a revised Form 2848 in December 2015 that updates the description of the representation requirements for unenrolled return preparers. Tax practitioners can continue to use prior versions of the form, and forms already filed will remain in effect until revoked by the taxpayer or withdrawn by the representative.

Form 2848 grants the taxpayer's representative general authority to perform the acts described in the power of attorney (POA), and it can grant authority to handle specific tax matters

such as Report of Foreign Bank and Financial Accounts (FBAR) issues and Affordable Care Act (ACA) issues.

**Updated Preparer Group**

The new Form 2848, revised in December 2015, includes an updated description and representation requirements for unenrolled return preparers (designation h). It also removes registered tax return preparers (designation i). **Figure 8.1** shows the updated Form 2848, Part II, Declaration of Representative.

**FIGURE 8.1 Form 2848, Part II, Declaration of Representative****Part II Declaration of Representative**

Under penalties of perjury, by my signature below I declare that:

- I am not currently suspended or disbarred from practice, or ineligible for practice, before the Internal Revenue Service;
- I am subject to regulations contained in Circular 230 (31 CFR, Subtitle A, Part 10), as amended, governing practice before the Internal Revenue Service;
- I am authorized to represent the taxpayer identified in Part I for the matter(s) specified there; and
- I am one of the following:
  - a Attorney—a member in good standing of the bar of the highest court of the jurisdiction shown below.
  - b Certified Public Accountant—licensed to practice as a certified public accountant is active in the jurisdiction shown below.
  - c Enrolled Agent—enrolled as an agent by the Internal Revenue Service per the requirements of Circular 230.
  - d Officer—a bona fide officer of the taxpayer organization.
  - e Full-Time Employee—a full-time employee of the taxpayer.
  - f Family Member—a member of the taxpayer's immediate family (spouse, parent, child, grandparent, grandchild, step-parent, step-child, brother, or sister).
  - g Enrolled Actuary—enrolled as an actuary by the Joint Board for the Enrollment of Actuaries under 29 U.S.C. 1242 (the authority to practice before the Internal Revenue Service is limited by section 10.3(d) of Circular 230).
  - h Unenrolled Return Preparer—Authority to practice before the IRS is limited. An unenrolled return preparer may represent, provided the preparer (1) prepared and signed the return or claim for refund (or prepared if there is no signature space on the form); (2) was eligible to sign the return or claim for refund; (3) has a valid PTIN; and (4) possesses the required Annual Filing Season Program Record of Completion(s). **See Special Rules and Requirements for Unenrolled Return Preparers in the instructions for additional information.**
  - k Student Attorney or CPA—receives permission to represent taxpayers before the IRS by virtue of his/her status as a law, business, or accounting student working in an LITC or STCP. See instructions for Part II for additional information and requirements.
  - r Enrolled Retirement Plan Agent—enrolled as a retirement plan agent under the requirements of Circular 230 (the authority to practice before the Internal Revenue Service is limited by section 10.3(e)).

An *unenrolled return preparer* is an individual other than an attorney, CPA, enrolled agent, enrolled retirement plan agent, or enrolled actuary who prepares and signs a taxpayer's return as the paid preparer, or who prepares a return but is not required (by the instructions for the return or regulations) to sign the return. The unenrolled return preparer designation includes individuals

who passed the IRS registered tax return preparer competency test that was offered between November 2011 and January 2013.

For returns prepared and signed *before* December 31, 2015, unenrolled return preparers must possess a valid and active preparer tax identification number (PTIN) to represent a taxpayer before the IRS, and must have been eligible to

sign the return or claim for refund under examination. For returns prepared and signed *after* December 31, 2015, the unenrolled return preparer must also possess (1) a valid Annual Filing Season Program Record of Completion for the calendar year in which the tax return or claim for refund was prepared and signed, and (2) a valid Annual Filing Season Program Record of Completion for the year or years in which the representation occurs. (An Annual Filing Season Program Record of Completion is not required for returns prepared and signed before January 1, 2016.)



#### **Practitioner Note** Form 8821

If an unenrolled return preparer does not meet all of the representation requirements, the taxpayer can authorize the unenrolled return preparer to inspect and/or request tax information by filing Form 8821, Tax Information Authorization. Filing a Form 8821 does not authorize the unenrolled return preparer to represent the taxpayer.

### **Use of Prior Versions of Form 2848 and Previously Filed Forms 2848**

The IRS continues to accept most prior-year versions of Form 2848, and previously filed Forms 2848 will remain in effect until the taxpayer revokes the POA or the representative withdraws.

#### **Prior Versions of Form 2848**

The IRS stopped accepting old Forms 2848 in 2011 because there were major revisions to the form and its process. The December 2015 revision does not have the major changes that the 2011 revision had, and the IRS Centralized Authorization File (CAF) Unit will continue to accept older versions of Form 2848. Form 2848 has been revised three times since October 2011. The IRS CAF Unit continues to accept the Forms 2848 revised March 2012 and July 2014.

#### **Previously Filed Forms 2848**

A previously filed Form 2848 will remain in effect until it is revoked or withdrawn.

#### **Revocation of Form 2848**

If the IRS records a POA on the CAF system, it revokes any earlier POA previously recorded on the system for the same matter. If the POA is for a specific use or is not recorded on the CAF system, the new POA will revoke only an earlier POA that is on file with the same office and for the same matters.

#### **Example 8.1 Changing Agent**

Edward James provided the IRS Office of Chief Counsel with a POA authorizing Katherine Hileman, attorney at law, to represent him in a private letter ruling (PLR) matter. Now, several months later, Edward decides that he wants to have his CPA, Chris Carter, handle this matter for him. By providing the IRS Office of Chief Counsel with a POA designating Chris Carter to handle the same PLR matter, Edward is revoking the earlier POA authorizing Katherine Hileman to represent him.



#### **Practitioner Note** No Revocation

If the taxpayer does not want the new POA to revoke an existing POA, the taxpayer must check the box on line 6 of the new Form 2848 and attach a copy of the existing POA.

If the taxpayer wants to revoke an existing POA and does not want to name a new representative, the taxpayer must mail or fax a copy of the previously executed POA to the IRS using the “Where to File” chart at [www.irs.gov](http://www.irs.gov) or in the Form 2848 instructions. The taxpayer must write “REVOKE” across the top of the first page of the previously executed POA, with a current signature and date below this annotation.

#### **Withdrawal of Representation**

If a representative wants to withdraw from representation, the representative must mail or fax a copy of the previously executed POA to the IRS. The representative must write “WITHDRAW” across the top of the first page, with a current signature and date below this annotation.

**Practitioner Note** Missing Form 2848

If the taxpayer or tax practitioner does not have a copy of the POA to be revoked or withdrawn, the taxpayer or the tax practitioner can send a written statement to the IRS. The written statement of revocation or withdrawal must indicate that the authority of the POA is revoked or withdrawn, must list the matters and years/periods, and must be signed and dated by the taxpayer or representative as applicable. If the taxpayer is revoking the POA, the statement must list the name and address of each representative whose authority is revoked. When the taxpayer is completely revoking authority, the form should state “remove all years/periods” instead of listing the specific tax matter or years/periods. If the representative is withdrawing from representation, the statement must list the name, taxpayer identification number, and address of the taxpayer.

**Withdrawal of Authorization—  
Deceased Tax Preparer**

The Return Preparer Office (RPO) checks the National Accounts Profile (NAP) monthly and changes preparer tax identification number (PTIN) statuses to “deceased” as appropriate. There is no need to notify the RPO when a PTIN holder is deceased. However, to close out a deceased practitioner’s CAF number, a surviving member of the practitioner’s firm/business—or, in the event of a sole proprietor or single-member LLC, the executor of that person’s estate—must send a written request (by fax or mail) to the CAF Unit identified in the “Where to File” chart of the Form 2848 instructions. Once the CAF Unit receives the written notice regarding the deceased practitioner, the CAF Unit will mark the CAF number owner as deceased. This action nullifies all authorizations (if any) listed on the CAF file for the decedent.

**Authorized Acts**

A POA authorizes a representative to perform general acts for the tax matters and tax years described in the POA. Certain specific acts, such as FBAR matters or ACA matters, require a more detailed grant of authority in the POA.

**General Authority**

Generally, the POA authorizes the listed representative to request and inspect confidential tax information and to perform all acts (e.g., to sign agreements, consents, waivers, or other documents) that the taxpayer can perform with respect to matters described in the POA.

**Practitioner Note** Joint Filers Must Execute Separate Forms 2848

If the taxpayer and the taxpayer’s spouse (or former spouse) are submitting a POA in connection with a joint return that was filed, they must submit separate Forms 2848, even if they are authorizing the same representative to represent them.

Representatives are not authorized to endorse or otherwise negotiate any check (including directing or accepting payment by any means, electronic or otherwise, into an account owned or controlled by the representative or any firm or other entity with whom the representative is associated) issued by the government related to a federal tax liability.

Additionally, unless specifically provided on line 5a of Form 2848, “Additional acts authorized,” the authorization does not include the power to substitute or add another representative, the power to sign certain returns, or the power to execute a request for disclosure of tax returns or return information to a third party.

**Specific Authority**

If the matter is not a tax matter, or if the tax form number or years or periods do not apply to the matter [for example, representation regarding the Offshore Voluntary Disclosure Program (OVDP) for FBAR matters, or representation regarding ACA excise taxes], the Form 2848 must describe the matter to which the POA pertains.

**POA for FBAR Matters**

If the taxpayer wants his or her representative to represent the taxpayer in matters concerning the OVDP, in addition to authorizing the representative to represent the taxpayer for tax years within the voluntary disclosure period, the POA must specifically authorize the representative to

represent the taxpayer for income tax, civil penalties, and FBARs. In addition, the tax practitioner must check the box on line 5a, “Other acts authorized,” of Form 2848 and include the words

“analogous acts for Report of Foreign Bank and Financial Accounts (FBAR) matters.” See the portion of Form 2848 in **Figure 8.2**.

**FIGURE 8.2 Form 2848 for FBAR Issues**

**3 Acts authorized (you are required to complete this line 3).** With the exception of the acts described in line 5b, I authorize my representative(s) to receive and inspect my confidential tax information and to perform acts that I can perform with respect to the tax matters described below. For example, my representative(s) shall have the authority to sign any agreements, consents, or similar documents (see instructions for line 5a for authorizing a representative to sign a return).

Description of Matter (Income, Employment, Payroll, Excise, Estate, Gift, Whistleblower, Practitioner Discipline, PLR, FOIA, Civil Penalty, Sec. 5000A Shared Responsibility Payment, Sec. 4980H Shared Responsibility Payment, etc.) (see instructions)	Tax Form Number (1040, 941, 720, etc.) (if applicable)	Year(s) or Period(s) (if applicable) (see instructions)
<b>Income</b>	<b>1040</b>	Years <b>20</b> through <b>20</b>
<b>Civil Penalties</b>	<b>N/A</b>	Years <b>20</b> through <b>20</b>
<b>Report of Foreign Bank and Financial Accounts (FBAR) Matters</b>	<b>TD F 90-22.1/FinCEN Form 114</b>	Years <b>20</b> through <b>20</b>

**4 Specific use not recorded on Centralized Authorization File (CAF).** If the power of attorney is for a specific use not recorded on CAF, check this box. See the instructions for **Line 4. Specific Use Not Recorded on CAF** . . . . .

**5a Additional acts authorized.** In addition to the acts listed on line 3 above, I authorize my representative(s) to perform the following acts (see instructions for line 5a for more information):

Authorize disclosure to third parties;  Substitute or add representative(s);  Sign a return; \_\_\_\_\_

Other acts authorized: **analogous acts for Report of Foreign Bank and Financial Accounts (FBAR) matters**

**POA for Affordable Care Act**

Form 2848 requires practitioners to include a description of the tax. For clients who may need representation regarding the ACA excise tax, tax practitioners must include the description on

Form 2848 because it is a separate tax and is not covered under the general “income tax” category. The tax practitioner must write in “4980H–employer shared responsibility payment” or “4980D–failure to meet market reforms.”

**ISSUE 2: LEVELS OF REPRESENTATION BEFORE THE IRS** This section explains the credentials that a tax professional must have to represent taxpayers before the IRS.

Enrolled agents, certified public accountants, and attorneys have unlimited representation rights before the IRS. Tax professionals with these credentials may represent their clients on any matters including audits, payment and collection issues, and appeals.

Preparers without one of these credentials have limited or no representation rights. Annual Filing Season Program (AFSP) participants can represent only clients whose returns they prepared and signed. Effective January 1, 2016, preparer tax identification number (PTIN) holders

who do not participate in the AFSP can prepare returns, but they have no representation rights.

**Enrolled Agents**

Enrolled agents are subject to a suitability check and must pass a three-part Special Enrollment Examination, which is a comprehensive exam that requires them to demonstrate proficiency in federal tax planning, individual and business tax return preparation, and representation. Certain

former IRS employees, by virtue of past technical experience, may be exempt from the exam requirement. Enrolled agents must complete 72 hours of continuing education every 3 years, with a minimum of 16 hours per year. Enrolled agents have unlimited representation rights.

### Certified Public Accountants

Licensed by state boards of accountancy, the District of Columbia, and US territories, certified public accountants have passed the Uniform CPA Examination. They have completed a study in accounting at a college or university, and they have also met experience and good-character requirements established by their respective boards of accountancy. In addition, CPAs must comply with ethical requirements and confidentiality requirements, and must complete specified levels of continuing education in order to maintain an active CPA license. CPAs have unlimited representation rights.

### Attorneys

Licensed by state courts, the District of Columbia, or their designees, such as the state bar, attorneys have earned a degree in law and have typically passed a bar exam. Attorneys generally have ongoing continuing education and professional character standards, and they have a duty of confidentiality to their clients. Attorneys have unlimited representation rights.

### Annual Filing Season Program Participants

The AFSP recognizes the efforts of return preparers who are generally not attorneys, certified public accountants, or enrolled agents. This program was designed to encourage education and filing season readiness. The IRS issues an Annual Filing Season Program Record of Completion to return preparers who obtain a certain number of continuing education hours in preparation for a specific tax year.

AFSP participants have limited practice rights. They may only represent clients whose

returns they prepared and signed, but only before revenue agents, customer service representatives, and similar IRS employees, including the Taxpayer Advocate Service. AFSP participants cannot represent clients whose returns they did not prepare, and they cannot represent clients regarding appeals or collection issues, even if they prepared the return in question.

### PTIN Holders

Tax return preparers who have an active PTIN but no professional credentials, and who do not participate in the AFSP, are authorized to prepare tax returns. Beginning January 1, 2016, this is the only authority they have. They have no authority to represent clients before the IRS (except regarding returns they prepared and filed on or before December 31, 2015).



**Practitioner Note**

Third-Party Designees

Taxpayers can include a third-party designee on Form 1040, U.S. Individual Income Tax Return. A taxpayer can also designate a third-party designee on business tax returns in the 94X series, and on Forms 720, 1041, 1065, 1120, 1120S, 2290, and CT-1 just above the signature line. The designee can exchange verbal information with the IRS on return-processing issues and with regard to refunds and payments related to the return. The authorization expires 1 year from the due date of the tax return regardless of any extension dates.



**Cross-Reference**

Practice before the Tax Court

Attorneys and some nonattorneys can practice before the Tax Court. See the "Tax Practice" chapter in the *2015 National Income Tax Workbook* for a discussion of representation in Tax Court.

**ISSUE 3: IRS TRANSCRIPTS** The taxpayer or tax practitioner can request a transcript to view tax account transactions or line-by-line tax return information for a specific tax year.

There are five types of available IRS transcripts, and the taxpayer or tax practitioner can order a transcript by mail, online, or by phone.

**Types of Transcripts and How to Order Them**

There are five types of IRS transcripts available to the taxpayer and his or her representative. **Figure 8.3** shows the five types of transcripts and the order method for each type of transcript. Additional methods for a tax practitioner to order transcripts are discussed later.

**FIGURE 8.3 Transcript Types and Ways to Order Them**

Transcript Type	Order Methods	
	Get Transcript Service	Form 4506-T
<i>Tax return transcript:</i> Shows most line items from the tax return (Form 1040, 1040A, or 1040EZ) as it was originally filed, including any accompanying forms and schedules. This transcript does not show account changes made after the return is processed. A return transcript usually meets the requirements of lending institutions offering mortgages and student loans.	Online or mail	Yes
<i>Tax account transcript:</i> Shows basic data including return type, marital status, adjusted gross income, taxable income, credits, and payments. It also shows adjustments made by the taxpayer or the IRS after the taxpayer filed the return. Note: If the taxpayer made estimated tax payments and/or applied an overpayment from a prior-year tax return to the current-year tax return, the taxpayer can use this transcript to confirm these payments or credits a few weeks after the beginning of the calendar year prior to filing the current-year return.	Online or mail	Yes
<i>Record of account transcript:</i> Combines the information from both the tax account and tax return transcripts.	Online only	Yes
<i>Wage and income transcript:</i> Shows data from information returns reported to the IRS, such as Forms W-2, 1099, and 1098; and IRA contribution information. Current-tax-year information may not be complete until July.	Online only	Yes
<i>Verification of nonfiling letter:</i> Provides proof from the IRS that the taxpayer did not file a Form 1040, 1040A, or 1040EZ this year. Current-year requests are not available until after June 15. This letter does not address whether the taxpayer is required to file a tax return for a given tax year. A taxpayer may fail to file a tax return even though he or she is required to do so.	Online only	Yes



**Get Transcript Service**

The Get Transcript Service provides two ways for the taxpayer to obtain transcripts: Get Transcript Online and Get Transcript by Mail.

**Get Transcript Online**

A taxpayer can view, print, or download tax return transcripts and tax account transcripts through the Get Transcript Online Service [[www.irs.gov/individuals/get-transcript](http://www.irs.gov/individuals/get-transcript)]. To get started, new users must have the following:

1. E-mail address
2. Social security number (SSN)
3. Filing status and mailing address on the last filed tax return
4. Access to an account number for a credit card, home mortgage loan, home equity loan, home equity line of credit, or car loan
5. US-based mobile phone with the taxpayer's name associated with the account
6. Temporary lift of any credit freeze on the taxpayer's credit records

To securely access Get Transcript Online, a first-time user must take the following steps:

1. Enter his or her name and e-mail address to receive an e-mailed confirmation code
2. Enter the confirmation code
3. Provide SSN, date of birth, filing status, and address on the last filed return
4. Provide one of the account numbers for a credit card or other account (see number 4 in the previous list)
5. Enter the mobile phone number to receive a six-digit activation code via text message
6. Enter the activation code
7. Create a user name and password, create a site phrase, and select a site image

Returning taxpayers who have completed the new secure process must log in with an existing user name and password. The IRS will send a security code via text message to the mobile phone number used to set up the account. The taxpayer must enter the security code to access his or her account.

### ***Get Transcript by Mail***

To use Get Transcript by Mail, the taxpayer must have his or her date of birth and address from the latest tax return. Transcripts arrive in 5 to 10 calendar days at the address the IRS has on file for the taxpayer. Generally, these transcripts are available for the current tax year and 3 prior tax years.



### **Practitioner Note**

### **Transcripts by Phone**

Another way to obtain IRS tax return or tax account transcripts is through the IRS automated phone service (800.908.9946). The transcripts arrive by mail in 5 to 10 calendar days. Transcripts for years earlier than the 3 prior tax years may be available.



### **Practitioner Note**

### **Phishing**

The IRS never sends an e-mail requesting that the taxpayer obtain or access transcripts. If the taxpayer receives such an e-mail, the taxpayer should forward it to the IRS fraud group at [phishing@irs.gov](mailto:phishing@irs.gov).

### ***Security of the Get Transcript Service***

Following an incident involving the IRS's Get Transcript application discovered in May 2015, the Treasury Inspector General for Tax Administration (TIGTA) conducted a 9-month investigation. TIGTA identified additional suspicious attempts to access taxpayer accounts using sensitive information. The further review found potential access to approximately 390,000 additional taxpayer accounts during the period from January 2014 through May 2015. An additional 295,000 taxpayer transcripts were targeted but not accessed. As a result, the IRS shut down the Get Transcript web application to address these security issues.

Get Transcript Online is now back online. The formal relaunch of Get Transcript Online addresses increased cybersecurity threats by using a new, more-secure access framework. This framework enables the IRS to require a two-step authentication process.

To access the new Get Transcript Online feature, taxpayers must have an e-mail address, a text-enabled mobile phone, and specific financial account information (as discussed earlier). Taxpayers who registered using the older process must re-register and strengthen their authentication in order to access the tool. As part of the new multifactor process, the IRS will send verification, activation, or security codes via e-mail and

text (see the earlier discussion regarding the activation and verification processes). The IRS texts and e-mails will contain only one-time codes.

## Form 4506-T

If the taxpayer needs an account transcript for an older tax year, a wage and income transcript, or a verification of nonfiling letter, the taxpayer can complete Form 4506-T, Request for Transcript of Tax Return, and send it to the IRS by mail or fax. Unlike the Get Transcript Service, the taxpayer can authorize the IRS to mail the transcripts to a third party such as a lender.



### Practitioner Note Copy of Return

The taxpayer can use Form 4506, Request for Copy of Tax Return, to request an exact copy of a previously filed and processed tax return with all attachments (including Form W-2). There is a \$50 fee for each tax return requested.

## Practitioner Priority Service

The Practitioner Priority Service (PPS) is a professional support line (866.860.4259) staffed by IRS customer service representatives specially trained to handle practitioners' account questions. PPS is available to all tax professionals with valid third-party authorizations, such as Form 2848, Form 8821, or Form 8655, Reporting Agent Authorization. One of the many services provided by PPS is to provide transcripts of taxpayer accounts

(including income verification) when the tax professional calls in regard to an account-related issue. The IRS will provide the transcripts by fax or by mail.

## Transcript Delivery System

The Transcript Delivery Service (TDS) allows tax practitioners to view, request, and receive account transcripts, wage and income documents, tax return transcripts, records of account, and verification of nonfiling letters in a secure online session. The requesting representative must have a properly executed Form 2848 or Form 8821 already on file. TDS user access is defaulted to approved principals, responsible officials, and principal consents on the e-file application. These individuals may authorize TDS access to delegated users in their business.



### Practitioner Note TDS Security

In an effort to minimize identity theft, the TDS will not deliver transcripts to requestors when an ID theft indicator is on the account. Tax professionals with a POA can contact the Identity Protection Specialized Unit or the PPS to obtain a client's transcript. The taxpayer will receive a notice alerting him or her of any requests for his or her transcript and instructing him or her to contact the Identity Protection Specialized Unit. Once proper authentication is completed, the IRS will issue a transcript to the taxpayer.

**ISSUE 4: TRANSFERRING THE LOCATION OF AN AUDIT** This section explains when the taxpayer can request a change in the place of an audit.

Some audits are conducted entirely by mail. If the audit is conducted by mail, the taxpayer will receive a letter from the IRS asking for additional information about certain items shown on the tax return such as income, expenses, and itemized deductions. If the IRS determines that there is underreported income or overstated deductions, the IRS will propose adjustments to the taxpayer's tax liability. If the taxpayer agrees with the adjustments, he or she is instructed to sign the

response form and fax or mail it to the IRS. If the taxpayer disagrees with the adjustments, he or she must prepare and submit a separate signed statement setting forth the reasons for disagreement with any supporting documentation.

If the audit is by correspondence, the taxpayer can request an in-person audit if, for example, the books and records are too voluminous to mail. In-person audits are typically conducted either at a local IRS office or at the taxpayer's business

location. If the audit is scheduled at the taxpayer's business location, the taxpayer can submit a written request to transfer the audit to another location, including an IRS office. In considering whether to grant a transfer, the IRS must balance convenience of the taxpayer with the requirements of sound and efficient tax administration and must consider the following factors in Treas. Reg. § 301.7605-1(e):

1. The location of the taxpayer's current residence
2. The location of the taxpayer's current principal place of business
3. The location at which the taxpayer's books, records, and source documents are maintained
4. The location at which the IRS can perform the examination most efficiently
5. The IRS resources available at the location to which the taxpayer has requested a transfer
6. Other factors that indicate that conducting the examination at a particular location could pose undue inconvenience to the taxpayer

The IRS generally does not consider the location of the place of business of a taxpayer's representative in determining the place for an examination. However, the IRS in its sole discretion may determine, based on the factors described previously, to transfer the place of examination to the taxpayer representative's office.

## Office Examinations

The IRS will typically grant a taxpayer request to transfer the place of an office examination if the taxpayer's current residence (in the case of an individual or sole proprietorship) or the location where the taxpayer's books, records, and source documents are maintained (in the case of a taxpayer entity) is closer to a different IRS office in the same district as the office where the examination has been scheduled.

If the taxpayer's current residence (in the case of an individual or sole proprietorship) or the location where a taxpayer entity's books, records, and source documents are maintained is in a district other than the district where the examination has been scheduled, the IRS usually will agree to transfer the examination to the closest IRS office in the other district.

## Field Examinations

If a taxpayer does not reside at the residence where an examination has been scheduled, the IRS will agree to transfer the examination to the taxpayer's current residence.

If, in the case of an individual, a sole proprietorship, or an entity taxpayer, the taxpayer's books, records, and source documents are maintained at a location other than the location where the examination has been scheduled, the IRS will usually agree to transfer the examination to the location where the taxpayer's books, records, and source documents are maintained.

**ISSUE 5: IRS OFFICE OF APPEALS** The IRS Office of Appeals is an independent organization within the IRS that helps to resolve tax disputes without going to Tax Court.

Every year, the IRS Office of Appeals helps over 100,000 taxpayers resolve their tax disputes without going to Tax Court. The Office of Appeals reviews each case and works to resolve disagreements in a manner that is fair and impartial to

both the government and the taxpayer. This section discusses when and how to request an Appeals conference, and it explains the Appeals review procedure.

## When to Request an Appeals Conference

A taxpayer can request an Appeals conference if the taxpayer received a letter from the IRS explaining the right to appeal the IRS's decision, the taxpayer does not agree with the IRS decision, and the taxpayer does not sign the agreement form that the IRS sent to the taxpayer. Specifically, the taxpayer should request an Appeals conference if the taxpayer believes that the IRS

1. took a position that is based on an incorrect interpretation of law,
2. did not properly apply the law to the facts of the case,
3. is taking inappropriate collection action against the taxpayer,
4. incorrectly denied an offer in compromise, or
5. used incorrect facts.

## How to Request an Appeals Conference

To request an Appeals conference, the taxpayer must file a written protest (unless the small case request procedure applies, discussed later). The taxpayer can represent himself or herself, or can retain a professional representative. The representative must be an attorney, a certified public accountant, or an enrolled agent authorized to practice before the IRS. The representative must provide the IRS with a copy of a completed Form 2848, Power of Attorney and Declaration of Representative.

### Formal Written Protest

A formal written protest must include all of the following:

1. The taxpayer's name, address, and a daytime telephone number
2. A statement that the taxpayer wants to appeal the IRS findings to the Office of Appeals
3. A copy of the letter that the taxpayer received that shows the proposed change(s)
4. The tax period(s) or year(s) involved

5. A list of each proposed item that the taxpayer disagrees with
6. The reason(s) the taxpayer disagrees with each item
7. The facts that support the position on each item
8. The law or authority, if any, that supports the position on each item
9. A penalties-of-perjury statement as follows: "Under the penalties of perjury, I declare that the facts stated in this protest and any accompanying documents are true, correct, and complete to the best of my knowledge and belief."
10. The taxpayer's signature under the penalties-of-perjury statement

If the taxpayer's representative prepares and signs the protest for the taxpayer, he or she must substitute a declaration for the penalties-of-perjury statement that includes

- that he or she submitted the protest and any accompanying documents, and
- whether he or she knows personally that the facts stated in the protest and any accompanying documents are true and correct.

The formal written protest must be submitted within the time limit specified in the letter that offers the taxpayer the right to appeal the proposed changes. Generally, the time limit is 30 days from the date of the letter.

### Small Case Request

If the entire amount of additional tax and penalty proposed for each tax period is \$25,000 or less, the taxpayer can use Form 12203, Request for Appeals Review (or a form referenced in the IRS letter to file the appeal), or can prepare a brief written statement to file an appeal. The taxpayer must list the disputed tax items and the reason why the taxpayer disagrees with the IRS's position. If the taxpayer is protesting a rejected offer in compromise, the entire amount for each period includes unpaid tax, penalties, and interest.

**Practitioner  
Note****Entity Requests  
Not Eligible**

Employee plans, exempt organizations, S corporations, and partnerships are not eligible for small case requests.

## The Appeals Process

If the case qualifies for an appeal, an Appeals employee will review the issues of the case with a fresh, objective perspective and schedule a conference with the taxpayer or his or her representative. Appeals conferences are informal. Appeals will consider any reason for disagreement, except for moral, religious, political, constitutional, or conscientious objections, or similar grounds.

### First Notice from Appeals

Response times from Appeals can vary, depending on the type of case and the time needed to review the file. Normally, an Appeals employee will contact the taxpayer or his or her representative within 90 days after the request is filed. If it has been more than 90 days since the taxpayer or the taxpayer's representative filed the request, the taxpayer or the taxpayer's representative should contact the office where he or she filed the appeal request. If the IRS office to which the taxpayer or the taxpayer's representative sent the taxpayer's request cannot provide a reason for the delay, the taxpayer or the taxpayer's representative can (1) have that office contact Appeals for an approximate date when Appeals might contact the taxpayer or the taxpayer's representative, or (2) call the Appeals Account Resolution Specialist (AARS) at 559.233.1267. The AARS can tell the taxpayer or the taxpayer's representative if the case has been assigned to an Appeals employee and how to contact that employee directly.

### The Appeals Conference

Prior to the Appeals conference, the Appeals employee will have reviewed the case. Depending on the nature of the appeal, the conference may be conducted by correspondence, by telephone, or in person. The duration of the appeal

process depends on the particular facts and circumstances of the dispute. Generally, it can take anywhere from 90 days to 1 year.

Appeals will not raise new issues (except in cases of fraud, misrepresentation, or malfeasance) but can raise new theories. The taxpayer can raise a new issue or present new information. However, Appeals may return the case to the examiner, so that the examiner will have the opportunity to consider the new issue or the new information.

### Example 8.2 Raising a New Theory

Corey Arnold reported a like-kind exchange under I.R.C. § 1031. The IRS challenged the transaction on the basis that the relinquished and replacement properties were not like-kind properties. Corey's CPA, Kari Stevenson, requested an Appeals conference. At the Appeals hearing, the officer determined that the properties were like-kind but observed that the exchange was not completed in the requisite time period. This is a new theory, but the issue is still the exclusion of the income from the like-kind exchange. The time period is a permissible alternative legal argument. Appeals can consider the best legal argument to arrive at the correct tax liability, and Appeals will not release jurisdiction of the case.

### Example 8.3 Raising a New Issue— Return to Examination

The IRS audited Jamie Miller, a sole proprietor. On his 2016 Schedule C (Form 1040), Profit or Loss From Business (Sole Proprietorship), Jamie reported \$20,000 of supplies expense, resulting in no tax liability. Upon examination, Jamie provided supporting information for only \$8,000 of supplies. The examiner disallowed the unsubstantiated \$12,000 (\$20,000 – \$8,000) deduction. Jamie filed an appeal. Jamie reviewed his QuickBooks records prior to the Appeals conference and found that he had made an error. He paid only \$8,000 for supplies, but had expenses of \$12,000 for sales taxes that he failed to report on line 23, "Taxes and licenses." Jamie provided the substantiation to the Appeals employee.

The examiner's original review of the return and proposed adjustments did not include a review of taxes, so this is a new issue, and Appeals

must return the case to the examiner to consider the new issue and the new evidence (provided there is sufficient time remaining on the statute of limitations or Jamie agrees to an extension).

## No Resolution at Appeals

If the taxpayer and the Appeals employee are unable to agree on all or some of the issues, the taxpayer can file a petition in Tax Court or pay the disputed tax and litigate the case in the US Court of Federal Claims or the applicable US district court.

## Mediation Alternatives

IRS Appeals offers mediation services through the Fast Track Settlement and Fast Track Mediation programs.

### Fast Track Settlement

Small businesses and self-employed-taxpayers, tax-exempt entities, government entities, and large business and international taxpayers can participate in the Fast Track Settlement (FTS) program, which was established by Rev. Proc. 2003-40, 2003-1 C.B.1044. With FTS, a trained mediator from the IRS Office of Appeals helps the taxpayer and the IRS reach an agreement on the disputed issues. The goal is to resolve small business and self-employed taxpayer cases within 60 days of a completed application (120 days for large businesses or international matters).

In order to qualify for FTS, the examiner must have issued Form 5701, Notice of Proposed Adjustment, to the taxpayer. The taxpayer must submit a written response opposing the examiner's proposed adjustments. Either the taxpayer or the examiner can apply for FTS by completing Form 14017, Application for Fast Track Settlement.

The Appeals mediator may offer settlement proposals and use Appeals's settlement authority, if needed, to resolve the dispute. Either the taxpayer or the IRS may accept or deny the Appeals mediator's settlement proposal.

### Fast Track Mediation

With Fast Track Mediation (FTM), a trained mediator from the IRS Office of Appeals is assigned to help the taxpayer and IRS Collection reach an agreement on disputed collection issues. The goal is to resolve the case within 40 days of an accepted application.

For the case to be considered for FTM, the taxpayer must first try to resolve all issues with the IRS. This means working cooperatively with the IRS revenue officer, followed by a conference with the officer's manager, before seeking the services of an Appeals mediator.

To begin the process, the taxpayer sends the revenue officer assigned to the case Form 13369, Agreement to Mediate, accompanied by a written statement detailing the taxpayer's position. If the application is accepted, a trained mediator from the IRS attempts to mediate the case to achieve a mutually agreeable settlement.

Cases not eligible for FTM include

1. Collection Appeal Program cases;
2. cases under consideration at an IRS campus site;
3. frivolous cases specified in Notice 2010-33, 2010-17, I.R.B. 609, such as taking the position that compliance with the internal revenue laws is voluntary or optional and not required or that federal income taxes are unconstitutional; and
4. other issues listed in Rev. Proc. 2003-41, such as issues designated for litigation or issues for which there is no legal precedent.

[Rev. Proc. 2003-41, 2003-1 C.B. 1047]

## ISSUE 6: IDENTITY THEFT Tax practitioners must know how to recognize identity theft and how to help victims of identity theft.

Tax-related identity theft occurs when someone uses a taxpayer's stolen social security number (SSN) to file a tax return claiming a fraudulent refund. Thieves may also use a stolen employer identification number (EIN) from a business client to create false Forms W-2 to support refund fraud schemes.

The IRS implemented new procedures to prevent and detect identity theft as well as reduce the time it takes to resolve these cases. Last year the IRS stopped 1,400,000 returns (\$8.7 billion in fraudulent refunds) that were confirmed to have been filed by identity thieves, and they currently have about 1,700 open investigations being worked by more than 400 IRS criminal investigators [*Written Testimony of Commissioner Koskinen before the Senate Finance Committee on Cybersecurity and Protecting Taxpayer Information*, April 12, 2016].

Tax practitioners play a critical role in assisting clients who are victims of tax-related identity theft. This section discusses how the tax practitioner can recognize the warning signs of identity theft, how to assist victims of identity theft, and new IRS security measures to prevent identity theft.

### Recognizing Identity Theft

The following are warning signs of identity theft:

1. A return is rejected; IRS reject codes indicate the taxpayer's SSN has already been used.
2. The taxpayer notices activity on or receives IRS notices regarding a tax return after all tax issues have been resolved, a refund has been paid, or account balances have been paid.
3. An IRS notice indicates the taxpayer received wages from an employer unknown to him or her.
4. The taxpayer's original return is accepted as an amended return.
5. The taxpayer receives IRS notices about fictitious employees.

6. The taxpayer receives notices about a defunct, closed, or dormant business after all accounts have been paid.

### IRS Impersonation Scam

A prevalent type of identity theft is the IRS impersonation scam. The scammers impersonate IRS agents and use the threat of arrest to obtain money from victims by falsely representing that the victims owe back taxes or other fees.

In May 2016, the Treasury Inspector General for Tax Administration (TIGTA) announced the arrests of five individuals based upon criminal complaints alleging that they were involved in schemes to impersonate IRS agents. According to the court documents, the suspects are responsible for almost \$2,000,000 in schemes that defrauded more than 1,500 victims, and they knowingly conspired with others to commit wire fraud by falsely impersonating IRS agents and demanding money under false pretenses. Victims received telephone calls from people claiming to be from the IRS. The IRS impersonators told the victims that the IRS would arrest them if they did not make payment immediately. The callers made these threats and used other methods of intimidation to persuade the victims to wire money using MoneyGram, Walmart-2-Walmart, and other wire services.

TIGTA reports that the IRS impersonation scam "continues to sweep the country," and it has resulted in reported taxpayer losses of more than \$36,000,000, averaging more than \$5,700 in losses per taxpayer.

The IRS will never demand payment by wire transfer or prepaid debit card. Taxpayers who receive a call demanding payment should file a report on the TIGTA "IRS Impersonation Scam Reporting" website [[www.treasury.gov/tigta/contact\\_report\\_scam.shtml](http://www.treasury.gov/tigta/contact_report_scam.shtml)].

## Assisting Victims of Identity Theft

The Federal Trade Commission (FTC) recommends that victims of identity theft do the following:

1. Report identity theft to the FTC at [www.identitytheft.gov](http://www.identitytheft.gov).
2. Contact the major credit bureaus to place a fraud alert on the taxpayer's records:
  - a. [www.Equifax.com](http://www.Equifax.com) (888.766.0008)
  - b. [www.Experian.com](http://www.Experian.com) (888.397.3742)
  - c. [www.TransUnion.com](http://www.TransUnion.com) (800.680.7289)
3. Close any financial or credit accounts opened fraudulently.

In addition to the FTC recommendations, the IRS further recommends that a victim of identity theft take the following action:

1. Respond promptly to IRS notices; the taxpayer may be directed to [IDVerify.irs.gov](http://IDVerify.irs.gov) to validate his or her identity.
2. Complete Form 14039, Identity Theft Affidavit, if the taxpayer's e-file return is rejected because of a duplicate SSN or the IRS instructs the taxpayer to complete the form (Form 14039 is discussed later).
3. Continue to file returns and pay taxes, even if it must be done using paper returns, while the IRS researches the case.
4. If the taxpayer previously contacted the IRS and the case is not resolved, call the IRS for specialized assistance at 800.908.4490.



### Practitioner Note

#### IDVerify

Taxpayers may receive Letter 5071C if the IRS stops suspicious tax returns that may be identity theft. The taxpayer can use the IRS Identity Verification Service website, [IDVerify.irs.gov](http://IDVerify.irs.gov), to confirm whether he or she filed the return in question.

## New IRS Security Procedures

The IRS Security Summit Initiative has implemented new safeguards for tax software accounts and is testing new Form W-2 verification codes. The new version of Form 14039 allows a taxpayer to report the identity theft of a minor.

### Security Summit Initiative

The IRS Security Summit Initiative is a partnership between the IRS, state revenue departments, and the private-sector tax industry leaders. The initiative's objective is to put new and innovative safeguards in place to protect taxpayers in time for the 2016 filing season.

The most visible change will be new password protections for private-sector tax software accounts. New standards require an 8-digit-minimum password using a combination of letters, numbers, and special characters. There also will be new security questions, new lock-out features, and new ways to verify e-mails.



### Practitioner Note

#### Driver's License

Many states have enacted their own new safeguards. Some states may request driver's license numbers, release refunds only after verifying data, or issue only paper refunds. Taxpayers do not need a driver's license to file their federal return.

The tax software industry will share new data elements with the IRS and the states, which will help determine if the return is valid. The IRS has increased the number and efficiency of the identity theft data models and filters that the IRS uses to identify potentially fraudulent returns. The IRS, states, and tax industry will also routinely share information about identity theft trends or new schemes so that all parties can react quickly and appropriately.

## Questions and Answers

### Question 1.

How will the new safeguards affect the taxpayer?

### Answer 1.

Taxpayers who prepare their own federal and state tax returns using tax software will have to create a new password when they access their tax software account, and will also be prompted to answer three security questions that can be used to verify identity when the taxpayer signs in. New lock-out features will be in place, limiting the time and attempts to access the tax software account, and the software will verify the taxpayer's e-mail address. Some companies will send the taxpayer an e-mail or text with a personal identification number (PIN) that the taxpayer must use to sign in.

### Question 2.

How will these safeguards affect refunds?

### Answer 2.

The IRS is doing more to verify identity before issuing refunds, but the IRS intends to still issue 9 out of 10 federal refunds within 21 days.

### Question 3.

What information do tax software providers share with the IRS about the taxpayer?

### Answer 3.

Tax software providers share with the IRS general tax return information and other data elements from the tax software that indicate potential fraudulent patterns occurring during return preparation.

### Question 4.

What if the taxpayer has already been the victim of tax-related identity theft and uses an identity protection personal identification number (IP PIN)?

### Answer 4.

An IP PIN is a 6-digit number assigned to eligible taxpayers to help prevent the misuse of their SSN on fraudulent federal income tax returns. Once the IRS sends the taxpayer an IP PIN, the taxpayer must use it to file any Forms 1040, 1040A, 1040EZ, or 1040PR/SS for the current tax return and any delinquent returns filed during the calendar year. The IRS will send the taxpayer a new IP PIN by postal mail prior to the start of the filing season.



### Practitioner Note

IP PIN Notices

The IRS issues identity protection personal identification numbers (IP PINs) to a taxpayer who was a victim of identity theft, notified the IRS that he or she may have been subject to identity theft, or requested an IP PIN. Because of an error, the IP PIN notices dated January 4, 2016, stated that the numbers were valid for 2014 when in fact they were valid for the 2015 tax year. The IRS has suspended issuing IP PINs for tax year 2016 to strengthen the security features of the IP PIN program.

### Question 5.

Why is there a new code on Form W-2?

### Answer 5.

This tax season, the IRS is testing a Form W-2 verification code to validate information return authenticity. The “verification code” box will appear on approximately 70,000,000 Forms W-2, but the 16-digit code will appear on about 2% of those forms. The test, which is for electronic returns only, will not affect refunds or tax filing for this season. For additional information, go to [www.irs.gov/Individuals/IRS-Tests-W-2-Verification-Code](http://www.irs.gov/Individuals/IRS-Tests-W-2-Verification-Code).



### Practitioner Note

Form W-2 Verification

For the Form W-2 verification code pilot program, the IRS partnered with four major payroll service providers. These providers added a special coded number calculated based on a formula and a key provided by the IRS, using data from the Form W-2 itself, so that each number generated is known only to the IRS, the payroll service provider, and the individual who receives the Form W-2. The verification code cannot be reverse-engineered. Since this identifier is unique, the IRS can detect any changes to the Form W-2 information provided when it is filed. Individuals whose Forms W-2 are affected by the pilot program and who use tax software to prepare their return must enter the code when prompted to by the software program. The IRS plans to increase the scope of this pilot program for the 2017 filing season by expanding the number and types of Form W-2 issuers involved in the test.

## New Form 14039, Identity Theft Affidavit

In April 2016, the IRS released the new version of Form 14039, Identity Theft Affidavit. The IRS has made significant changes to the form, and for the first time, minors now have a place to declare their identity has been stolen. Changes to the form include the following:

1. Section A adds a designation that the taxpayer is filing the form for himself or herself, or for a dependent. Minors have their own form.
2. Section C includes blocks for the tax years involved.

3. In Section E, the perjury statement is moved to page 1 of the form.
4. Section F includes a place to put information about minors and the relationship of the person filing the form on their behalf; blocks have been added for a centralized authorization file (CAF) number. This section also requests the last four digits of the representative's taxpayer identification number.
5. In prior years, the taxpayer mailed the form to the Andover IRS Campus; now the taxpayer must mail it to the Fresno IRS Campus.

Figure 8.4 shows the new Form 14039.

FIGURE 8.4 Revised Form 14039, Identity Theft Affidavit

Form <b>14039</b> (April 2016)	Department of the Treasury - Internal Revenue Service <b>Identity Theft Affidavit</b>	OMB Number 1545-2139	
Complete this form if you need the IRS to mark an account to identify questionable activity.			
<b>Section A - Check the following boxes in this section that apply to the specific situation you are reporting</b> (Required for all filers)			
<input type="checkbox"/> 1. I am submitting this Form 14039 for myself <input type="checkbox"/> 2. I am submitting this Form 14039 in response to a mailed 'Notice' or 'Letter' received from the IRS. If person in <b>Section C</b> received IRS 'Notice CP 2000', or other IRS Notice questioning income, follow the instructions on that IRS 'Notice' or 'Letter'. • Please provide 'Notice' or 'Letter' number(s) on the <b>line to the right</b> _____ <input type="checkbox"/> 3. I am submitting this Form 14039 on behalf of my dependent. Please complete <b>Section F</b> on reverse side of this form. <b>Caution:</b> If you are filing this on behalf of a Minor or Dependent, filing this form will protect his or her tax account but it will <b>not</b> prevent the dependent in <b>Section C</b> below from being claimed as a dependent by another person. <input type="checkbox"/> 4. I am submitting this Form 14039 on behalf of another person ( <i>other than my dependent</i> ). • Please complete <b>Section F</b> on reverse side of this form.			
<b>Section B - Reason For Filing This Form</b> (Required)			
Check only <b>ONE</b> of the following boxes that apply to the person listed in <b>Section C</b> below.			
<input type="checkbox"/> 1. <b>Federal tax records affected</b> and I am a victim of identity theft <input type="checkbox"/> 2. <b>Federal tax records not affected</b> and I am a victim of identity theft, or an event has affected/compromised my personal information placing me at-risk to be a future victim of identity theft.			
<b>Please provide an explanation</b> of the identity theft issue, how you became aware of it and provide relevant dates.			
----- ----- -----			
<b>Section C - Name and Contact Information of Identity Theft Victim or Potential Victim</b> (Required)			
Taxpayer's last name	First name	Middle initial	<b>Taxpayer Identification Number</b> (Please provide your 9-digit SSN or ITIN)
<b>Current mailing address</b> (apartment or suite number and street, or P.O. Box) If deceased, please provide last known address.			
City		State	ZIP code
<b>Tax Year(s) in which you experienced identity theft</b> (If not known, enter 'Unknown' in one of the boxes below)			<b>Last tax year a return was filed</b>



## Other Resources

The following resources may be helpful to prevent and address tax-related identity theft:

- IRS Publication 1345, *Handbook for Authorized IRS e-file Providers of Individual Income Tax Returns*
- IRS Publication 4524, *Security Awareness for Taxpayers*
- IRS Publication 4535, *Identity Theft Prevention and Victim Assistance*
- IRS Publication 4557, *Safeguarding Taxpayer Data*

- IRS Publication 4600, *Tips for Safeguarding Taxpayer Data*
- IRS Publication 5199, *Tax Preparer Guide to Identity Theft*
- IRS Publication 5027, *Identity Theft Information for Taxpayers*



### Cross-Reference

### Data Security Program

See the “Ethics” chapter in this book for more information about the tax practitioner’s obligation to have a data security program, the recommended components of that program, and reporting a security breach.

## ISSUE 7: IRS INITIATIVES This section discusses the IRS Future State Initiative and the Early Interaction Initiative.

The IRS Future State Initiative is designed to improve tax administration. The goals of the Early Interaction Initiative are to quickly identify employers who are delinquent in the payment of payroll and employment taxes and to help those employers get current.

### The IRS Future State Initiative

The Future State Initiative is an ongoing and evolving effort to improve overall tax administration by improving tax-processing systems, increasing electronic filing and payment options, and expanding services available on IRS.gov for taxpayers and tax professionals. The initiative’s goals are to improve taxpayer service, enforcement, and operations in an environment of limited resources and rapid changes in technology. In speaking about the initiative, IRS Commissioner John A. Koskinen said,

Last year 86% of people filed their returns electronically. That means 14%, or over 20,000,000 Americans, filed them on paper. And that works for them, and it works for us. So nothing in this anywhere envisions that we are not going to have call centers, we are not going to have

taxpayer assistance centers, we are not going to have VITA sites out there.

Our goal is to get people off the phones who don’t want to be on the phones, who would much rather find out about where their refund is by going to an app, or much rather file a return and get communications from us electronically, and never call us if they didn’t have to. So that [for] people who are on the phone, the level of service would go up, because the only people there are the people who want to be there, who need to be there. [IRS Commissioner John A. Koskinen, *Tax Notes* interview, February 17, 2016]

The Future State Initiative consists of a taxpayer component and an IRS activities component.

### Taxpayer Component

The Future State Initiative taxpayer component focuses on using technology to improve the customer service experience. The goal is to have a secure online account for each taxpayer, where the taxpayer or his or her representative can log in securely, access account information, and interact with the IRS as needed. This approach is intended to free up IRS personnel to provide

more efficient one-on-one assistance for those taxpayers and tax professionals who need it.

Also, with the immediate availability of account information, the IRS can identify tax issues more expeditiously (with the filing of the return) rather than a year or more after the return is filed, when costly interest and penalties may have accrued. The IRS can also resolve compliance issues without issuance of multiple notices and/or labor-intensive audits.

Finally, the initiative reinforces the IRS commitment to combat tax-related identity theft by improving identity authentication and increasing Internet security.

## IRS Activities Component

The IRS has several projects to help identify areas where the IRS can become more effective, more efficient, and more cost-effective for taxpayers. Projects include the following:

1. The Tax Exempt/Government Entities division is conducting a Lean Six Sigma review of determination letter processes in exempt organizations and employee plans, and is developing web-based solutions for taxpayer service and outreach.
2. The Taxpayer Assistance Center (TAC) appointment test allows taxpayers to schedule appointments at TACs.
3. Web-first service strategy provides taxpayers with immediate options to get tax information and automated services online, which allows employees to help more taxpayers who need person-to-person assistance.
4. Identity Theft Victim Assistance Directorate centralizes the identity theft victim assistance work and provides end-to-end accountability, all with the goal of helping taxpayers to receive timely and consistent help in resolving their cases.
5. The Enterprise eRecords Management Team is working to develop IRS policies, procedures, and IT solutions for electronic records management and archiving (including e-mail).

6. In the past 5 years, the IRS has eliminated more than 2,400,000 square feet of excess office space. The cumulative effect of these reductions is \$64,000,000 less rent expense needed in 2016—funds that can be used to support other core services of the IRS, such as training.

## Early Interaction Initiative

The IRS launched the Early Interaction Initiative to more quickly identify employers who are delinquent in the payment of payroll and employment taxes and help them become current as quickly as possible. The goal is to provide those employers with helpful information and guidance through letters, automated phone messages, and in some instances a visit from a revenue officer.

Two-thirds of federal taxes are collected through the payroll tax system. Shortly after employees are paid, employers typically must deposit withheld amounts, along with employer-matching contributions, to the federal government. Though payment schedules vary, the employer makes these federal tax deposits (FTDs) electronically through the Electronic Federal Tax Payment System (EFTPS). The employer later reports the FTDs on a return, usually filed quarterly, with the IRS.

Employers, especially those facing liquidity difficulties, sometimes inappropriately divert funds withheld from employees' pay for working capital or other purposes. Even when well-intentioned, such diversions can quickly result in mounting tax liabilities for the employer, along with interest and penalties, potentially threatening the employer's financial viability.

In the past, the IRS's first attempt to contact an employer having payment difficulties often did not occur until much later in the process, after the employment return was filed and the employer's unpaid tax obligation had already accrued interest and penalties. This initiative is designed to help employers stay in compliance and avoid needless interest and penalty charges.

**Practitioner  
Note****Trust Fund  
Recovery Penalty**

If trust fund taxes willfully are not collected, are not truthfully accounted for and paid, or are evaded or defeated in any way, the IRS may charge a trust fund recovery penalty. This penalty is equal to the amount of the trust fund taxes evaded, not collected, not accounted for, or not paid to IRS. The IRS also charges interest on the penalty. The trust fund recovery penalty may apply to a person who is responsible for collecting, accounting for, and paying the trust fund taxes, and who acted willfully in not doing so.

The Early Interaction Initiative seeks to identify employers who appear to be falling behind on their tax payments even before an employment tax return is filed. The IRS monitors federal tax deposits. If payroll tax deposits decline, the IRS may send the employer a letter stating that the IRS has reviewed the employer's federal payroll

tax deposit history and the deposits appear to have decreased. The letter will ask the employer to contact the IRS, by letter or phone, and explain why the deposits decreased. In addition, the letter will remind the employer of their payroll tax responsibilities, advise them of the consequences of not complying with those responsibilities, and provide assistance to help them comply.

Employers identified under this initiative may also receive automated phone messages from the IRS providing information and assistance. Where appropriate, an IRS revenue officer will also contact some of these employers at their place of business.

If the employer has an explanation for the decline in payroll tax deposits, such as a cut in staff or a reorganization, the IRS will close the case. If there is a delinquency, the IRS will work with the employer to correct the delinquent condition going forward and address the unpaid tax, penalties, and interest.

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