



Ronald M Wiener, Esquire



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Ron is quoted throughout the article below that appeared in the Economy Section of the June 2010 issue of the Northeast Pennsylvania Business Journal

This article can also be found online at:

<http://biz570.com/economy/banking/in-a-bind-irs-leaning-on-unwilling-cpa-deputies-to-enforce-law-1.826865>

In a bind: IRS leaning on unwilling CPA 'deputies' to enforce law

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Published: June 2, 2010

A CPA group complains that the Internal Revenue Service is shifting its responsibility for enforcing taxpayer compliance to CPAs and other tax preparers.

CPAs believe various recent IRS actions have "deputized" them to become enforcers of the tax code. As a result members of the Pennsylvania Institute of Certified Public Accountants (PICPA) have called upon Nina Olson, an IRS "taxpayer advocate" to investigate what the CPAs deem IRS "heavy handedness."

The Pennsylvania Institute of Certified Public Accountants (PICPA) says the IRS actions will affect CPAs' costs and client relations including:

- The CPA role as client advocate;
- More disclosures on business tax returns; and
- Higher fees for CPAs and clients as a result of increased reporting requirements.

The problem appears to be that tax codes have grown so complex, even the IRS isn't sure of all the rules.

Passing the buck

The IRS is "overwhelmed" says Nicholas Crocetti, chair of the Pennsylvania Institute of Certified Public Accountants' (PICPA) Federal Tax Committee (FTC).

Speaking from his office in Philadelphia, Crocetti explains that, over the past three years, the IRS has become more bogged down in its own rules than ever. So it has begun "delegating" more and more of its responsibilities to local tax attorneys, certified public accountants (CPA) and other tax practitioners — all of whom believe their responsibility is to their clients, not the IRS.

Philadelphia tax attorney Ronald M. Wiener of Drucker & Scaccetti agrees. Wiener has practiced law for more than 40 years with an emphasis in real estate and partnership tax issues. He has extensive knowledge of IRS practices and procedures.

Crocetti has worked with Wiener on “Working Together,” a program developed to improve the working relationship between IRS personnel and private tax practitioners. Both men praise the program for its help in getting tax problems solved. A frequent attendee and speaker at “Working Together” events is Nina E. Olson, national taxpayer advocate at the IRS in Washington, D.C. Although Olson is an IRS employee, she says she works to balance the concerns of all constituents — taxpayers, tax practitioners, IRS agents and Congress.

Letter of Concern

On Feb. 12, PICPA’s Crocetti sent a letter to Olson at the IRS regarding the most recent round of IRS regulations and demands.

“The intent of this letter is to share the FTC concern that this paradigm shift has the effect of requiring an unethical shift in our most fundamental client duty to be an advocate for our client. We believe this changing construct of tax practice is effectively deputizing the practitioner to become an enforcement mechanism of the IRS. The FTC believes those changes are morally wrong and the changes represent a systemic problem that is creating a significant taxpayer burden that will render the strategy counterproductive.”

The FTC letter further complains about a “poorly written” letter the IRS sent to 10,000 tax practitioners in support of a new preparer regulation study and initiative.

Climate Change

Just as he did, many CPAs begin their careers as IRS agents, Crocetti says. That experience made the relationship between CPAs and IRS agents cooperative, says PICPA’s Crocetti. However, over the past three years the harmonious atmosphere has changed to a “We are going to get you’ attitude, with added threats of egregious penalties and elements of punishment,” he says.

With the IRS “delegating” more and more of its responsibilities, the result is more time and paperwork for the tax preparer and the taxpayer. This raises costs for everyone — “with no added value to the client,” Crocetti says.

In defense of those 10,000 IRS letters, the agency says it is trying to get all tax preparers licensed so the public will be protected from unethical tax preparers. IRS reasoning is that, since the majority of taxpayers require help in filing their taxes, the task of preparing returns has grown into a lucrative profession for people other than CPAs. As more citizens look for a “cheaper” way to get their taxes done, going to non-CPAs seems like a smart cost-cutting measure — but it could result in that taxpayer filing an incorrect return. However, Crocetti’s letter points out that the confusion that drives taxpayers to a third-party preparer is created by the IRS itself. His letter states, “The increase in compliance costs represents a significant burden to taxpayers and those increased costs tend to inhibit the efficient and effective administration of the tax law.”

So complex, no one understands

Beyond dealing with the IRS, business owners frequently have to deal with the tax laws of more than one state. Each state has its own set of tax laws.

In addition to multiple sets of laws, tax laws also change constantly, so that nobody — CPAs, lawyers or IRS agents — knows all the rules say CPA Crocetti, Atty. Wiener and Tax Advocate Olson.

Wiener explains there are many gray areas where business can claim legal exemptions from paying taxes on certain profits. When CPAs complete a client’s tax forms, they are required to defend these gray areas in advance. The IRS is looking for more CPA compliance in this area. It demands they gather much more information from the client and then explain it to the IRS. They are to tell the IRS to double check their position, not spend time looking at other parts of the return. If the IRS thinks the information is wrong, the penalties are high to both the taxpayer and the tax preparer.

Antiquated and inefficient

Crocetti says that the last time he visited the Philadelphia Division of the IRS he was told that the IRS computers were so old, technicians who could program them could not be found.

The IRS can’t even handle all the phone calls it gets, Crocetti says, adding that it’s unbelievable that the IRS thinks returning 70 percent of its phone calls is acceptable. Nina Olson, the taxpayer advocate, does her part to defend IRS agents. Regarding the 70 percent call-back rate, she explained that multiple date requirements for the First Time Home Buyers rebate program caused confusion for taxpayers. So they started to call and up went the number of incoming calls. Consequently, the unanswered

call rate spiked. If a consumer can't get through on the phone, they are likely to write a letter — so letters started pouring in. When the agents were thus tied up answering the mail, the phones went unanswered.

The problem, she said, is a lack of sufficient staff to handle phone calls, leading to a downward spiral of efficiency. Olson says, "Apart from the justified outrage it causes an honest taxpayer, I have never understood why anyone would think it's good business to fail to answer a phone call from someone who owes you money."

Her report can be read in its entirety by going to IRS.gov and clicking on Taxpayer Advocate.

Unintended consequences

Many of the directives to the IRS have unintended consequences. For example, Wiener draws attention to a 'disclaimer' he now appends to the end of every e-mail he sends. Explaining the disclaimer, he says, "Because of some IRS rules issued in 2005, many tax practitioners routinely add something like this to their e-mail messages — even when the messages have nothing to do with taxes. It's the law of unintended consequences."

The disclaimer reads: "IRS Circular 230 Disclosure: This document was not intended or written to be used, and it cannot be used, for the purpose of avoiding federal, state or local tax penalties, or for promoting, marketing or recommending to another party any transaction or matter addressed herein."

Pessimism

Crocetti has not received a reply to his letter to Olson. He really isn't expecting one. He just wants her to bring the issues to the attention of Congress. He is pessimistic about getting any real cooperation from the IRS.

Wiener says, "It's hopeless. Congress won't do what it can do" — which is to simplify the tax code.

Wiener suggests the members of Congress should be made to do their own tax returns without any help from a CPA. He is sure then they would soon make the code easier to understand.