Contents

1

Preface xix	
Book Citations xxiii	
Charter On a IDC Ardite of Tay Franch Organizations Frandsmantale	
Chapter One: IRS Audits of Tax-Exempt Organizations: Fundamentals	2
§ 1.1 Introduction to IRS Exempt Organizations Audit Procedures § 1.2 Reasons for IRS Audits 4	2
§ 1.3 IRS Audit Issues: Introduction 5	
§ 1.4 IRS Audit Procedures in General 6	
§ 1.5 Tax-Exempt Organizations' Rights 7	
§ 1.6 Types of IRS Examinations 8	
(a) Field Examinations 8	
(b) Office and Correspondence Examinations 9	
(c) Team Examinations 9	
(d) Compliance Check Projects 10	
§ 1.7 IRS Audit Controversy 11	
§ 1.8 IRS Summons Authority 12	
§ 1.9 Technical Advice 13	
(a) General Procedures in Exempt Organizations Context 1	4
(b) Pre-Submission Conferences 15	
(c) Contents of TAM Requests 16	
(d) Handling of TAM Requests 17	
(e) Appeals of Decisions to Not Seek Advice 17	
(f) Withdrawal of TAM Requests 18	
(g) Conference Scheduling 18	
(h) IRS Use of TAMs 19	
(i) Effect of TAM 20	
(j) Limited Retroactive Effect of TAM 20	
(k) Future Use of TAMs 21	
§ 1.10 Closing Agreements 21	
(a) Overall Purpose of Closing Agreements 22	
(b) Authority and Function 22	
(c) Scope 23	
(d) Finality 24	
	24
§ 1.11 Freedom of Information Act 26	
§ 1.12 Retroactive Revocation of Tax-Exempt Status 27	
§ 1.13 Expansion of IRS Exempt Organizations Audit Activity 30	
§ 1.14 Current and Future Focus of IRS Exempt Organizations Audit	s 32

C	hapter T	wo: Organization of the IRS	37
	§ 2.1	Structure of Department of Treasury 37	
		(a) Treasury Department in General 38	
		(b) Treasury Inspector General for Tax Administration 39	
	§ 2.2	IRS in General 39	
	§ 2.3	Tax Exempt and Government Entities Division 43	
		(a) Overall Organization 43	
		(b) Customer Profile 47	
		(c) Operations 48	
		(d) Enforcement Function 50	
	§ 2.4	Headquarters Mission 51	
		(a) Senior Technical Advisor 51	
		(b) Planning 52	
		(c) Finance 52	
		(d) Communications and Liaison 52	
		(e) Business Systems Planning 53	
	2 - -	(t) Research and Analysis 53	
	§ 2.5	(e) Business Systems Planning 53 (f) Research and Analysis 53 Examinations Office 53 Customer Education and Outreach 55 Rulings and Agreements 56 Program Management 57 Customer Accounts Services 58 IRS Administrative Europtic 55 IRS Administrative Euro	
	§ 2.6	Customer Education and Outreach 55	
	§ 2.7	Rulings and Agreements 56	
	§ 2.8	Program Management 57	
	§ 2.9	Customer Accounts Services 58	
	§ 2.10	INS Administrative Functions 36	
	§ 2.11	Appeals 61 (a) Organization Printing and Mission 62	
		(a) Organization, Priorities, and Mission 62	
	C 2 12	(b) Appeals Function and Tax-Exempt Organizations 63 Office of National Taxpayer Advocate 64	
	§ 2.12	(a) Mission Fulfillment 64	
		(b) Organization 65	
		(c) General Rules 65	
		(d) Systemic Advocacy 66	
		(e) TAS and Tax-Exempt Organizations 66	
	§ 2.13	Practice Before IRS 67	
	3 2.10	Tractice before the or	
C	hapter T	Three: Managing Tax-Exempt Organizations IRS Audits	69
	§ 3.1	Pre-Audit Precautions 70	
		(a) Review Governing Instruments 70	
		(b) Review Operations 72	
		(c) Review Books and Records 73	
		(d) Review Publications 74	
		(e) Review Correspondence 76	
		(f) Review Minutes 76	
		(g) Review Federal Returns 78	
		(h) Review Contracts 79	
		(i) Conflict-of-Interest Policy 81	

■ x

	(j) Other Documents 82
	(k) Review Web Site 85
	(l) Employment Taxes 86
	(m) Media Coverage 86
	(n) Testaments 86
	(o) Governance 87
	(p) Legal Audit 89
§ 3.2	Winning Audit Lottery: Initial Steps and Reactions 89
0	(a) Telephone Call 90
	(b) Notice of Examination 90
	(c) Documents Requested 90
	(i) Organizational Documents 90
	(ii) Operational Documents 90
	(iii) Books and Records 91
	(d) Get Organized 91
	(a) Contact Person 01
	(f) Communications Strategy 91
	(f) Communications Strategy 91 (g) Know the Cast 91 (h) Office Facilities for IRS 92 (i) Initial and Other Interviews 93 (j) First Impressions 94 Audit Unfolder Opening Steps 94
	(h) Office Facilities for IRS 92
	(i) Initial and Other Interviews 93
	(j) First Impressions 94
§ 3.3	Audit Unfolds: Ongoing Steps 94
5 - 10	(a) Documents 94
	(b) Stay Calm, Things Take Time 94
	(c) Audit Outcomes 95
	(d) Perspective 95
§ 3.4	Power of Attorney 26
§ 3.5	Interacting with IRS Examiners 97
0	(a) Coping with Examiners 97
	(b) Tours 99
	(c) Point Person 100
	(d) Documents 101
§ 3.6	Documents Likely to Be Requested 101
§ 3.7	Qualified Amended Returns 102
§ 3.8	Issue Elevation 103
0 - 1	(a) Definition of <i>Elevation</i> 103
	(b) Definition of <i>Issue</i> 104
	(c) Why Issues Are Elevated 104
	(d) Elevation to Inform Managers or Executives 105
	(e) Elevation to Obtain Decision 106
	(f) Issues That Are Candidates for Elevation 107
	(g) Referral to or Consultation with Counsel 108
§ 3.9	Appeals 109
٠٠٠ ل	(a) IRS District Office Action 109

	(b) Regional Office Appeal 109	
	(c) Proposed Additional Tax 110	
§ 3.10	Parade of IRS Forms 111	
	(i) Notice of Examination 112	
	(ii) Information Document Requests 113	
	(iii) Power of Attorney 113	
	(iv) Explanation of Items 113	
	(v) Exempt Organizations—Report of Examination (Proposed	
	Status Changes 113	
	(vi) Consent to Proposed Action—Section 7428 114	
	(vii) Thirty-day Letter 114	
	(viii) Appeals Acknowledgment Letter 114	
	(ix) Consent to Extend the Statute of Limitations 114	
§ 3.11	Statute of Limitations 115	
§ 3.12	An Unwanted Outcome 116	
§ 3.13	Litigation 117 (a) General Rules 118 (b) Declaratory Judgment Rules 120	
	(a) General Rules 118	
	(b) Declaratory Judgment Rules 120	
	(1) General Requirements 120	
	(ii) Exhaustion of Administrative Remedies 125	
	(iii) Deductibility of Contributions 126	
	(iv) Administrative Record 127	
	(v) Development of Law 130	
	(c) Other Approaches 132	
Cl	IDC C 11 20 1 D 1 1	_
-	our: IRS Compliance Check Projects	5
§ 4.1	Compliance Check Projects Program 136	
§ 4.2	Concept of Market Segment Study 137	
§ 4.3	Executive Compensation Compliance Initiative 139	
	(a) Law Backdrop 139 (b) Redemound 142	
	(b) Background 142(c) Methodology 142	
	(d) Examination Phase 143	
	(e) Findings 143	
	(f) Conclusions 144	
	(g) Lessons Learned and Recommendations 145	
§ 4.4	Political Activities Compliance Initiative 146	
8 1.1	(a) Law Backdrop 146	
	(b) 2004 Election Initiatives 147	
	(c) 2006 Election Initiatives 148	
	(d) 2007 Update 149	
§ 4.5	Hospital Compliance Project 150	
J 2.0	(a) Law Backdrop 150	
	(b) Methodology and Process 151	
	· /	

	(A) TICTA Designs 154
	(c) TIGTA Review 154
	(d) IRS Interim Report 154
0.46	(e) Future Developments 156
§ 4.6	Intermediate Sanctions Compliance Reporting 156
	(a) Law Backdrop 156
	(b) Compliance Project 157
§ 4.7	Fundraising Costs Reporting 157
	(a) Law Backdrop 157
	(b) Compliance Project 157
$\S 4.8$	Tax-Exempt Bonds Recordkeeping Compliance 161
	(a) Law Backdrop 158
	(b) Compliance Project 158
§ 4.9	Successor Member Interest Contributions 159
	(a) Law Backdrop 159
	(b) Compliance/Examination Project 161
ot	
_	ive: IRS Tax-Exempt Organizations Examination Procedures 165
§ 5.1	Director, Exempt Organizations Examinations 167
§ 5.2	Planning, Classifying, and Selecting Returns: Processing Claims 168
	(a) Inventory and Classification System 168
	(b) Examination Process 170
	(c) Claims Processing 171
CEO	(d) Joint Committee Claim Cases 171
§ 5.3	Information Items 171
	(a) Types and Sources 177
	(b) General Procedures 172 (c) Classification Procedures 174
	(3)
S 5 1	(d) Referral Committee 176 Other IRS Precamination Processes 177
§ 5.4	(a) Record-keeping System 177
	(b) Case Assignment Guide 178(c) Preexamination Guidelines 182
	(d) Examination Objectives 183
	(e) Beginning of Examination Process 184
	(t) Group Manager Involvement 184 (g) Statute of Limitations 185
§ 5.5	Examination Cycle 189
§ 5.6	Conflicts of Interest 189
§ 5.0 § 5.7	Prohibition on Executive Branch Influence 190
§ 5.8	Consecutive Examinations 191
§ 5.9	Repetitive Examinations 191
§ 5.10	Return Surveys 192
§ 5.10 § 5.11	Preexamination Procedures: Overview 193
§ 5.11	Review of Return 194
§ 5.12	Review of Accompanying IRS Documents 195
5 0.10	10.10.1 of recomputying the Documents 175

§ 5.14	Dete	ermination File 196
§ 5.15	Rese	earch and Assistance 196
§ 5.16	Case	e Chronology Record 197
§ 5.17		kpaper Summary 198
§ 5.18		nmencement of Examination 198
	(a)	Initial Taxpayer Contact 198
		(i) Definition 198
		(ii) Contact Person 199
		(iii) Initial Contact 200
		(iv) Examination Transfers 201
		(v) Initial Information Document Request 203
		(vi) Planning Initial Interview 205
	(b)	a a
	(~)	(i) Quality Examinations 207
		('') F ' (' Ol' (' 000
		(iii) Customer Service 208 (iv) National Standard Time Frames 209 (v) Initial Examination Scope 210
		(iv) National Standard Time Frames 209
		(v) Initial Examination Scope 210
	(c)	Limited Scope Examinations 211
		Evaluation of Internal Controls 211
	. ,	Examiner Workpapers 213
		Examination Techniques 214
		Initial Interview 216
	_	Third-Party Contacts 217
	(i)	
	(i) (j)	Place of Examination 218
§ 5.19		mination Unfolds 218
8 5.17	(a)	
	(b)	
	(D)	(i) Books and Records 219
		(ii) Governing Instruments 220
		(iii) Minutes 220
		(iv) Publications 221
		(v) Web Site 221
		(vi) Operating Manuals 221
		(vii) Contracts 221
		(viii) Correspondence Files 221
		(ix) Financial Records 222
	(c)	Sampling Techniques 225
	(d)	
	(u) (e)	Income Analysis 226 Disbursement Analysis 226
	(f)	Filing Requirements 227
		~ -
	(g)	1
	(h)	Balance Sheet Analysis 228 Tax Liabilities 229
	(i)	Tax Liavillues 227

	CONTENTS		
	(j) Accuracy of Returns 229		
	(k) Penalties 229		
	(l) Issue Development 230		
	(m) Exempt Organization-Caused Delays 231		
	(n) Developing and Documenting Facts 231		
	(o) Collecting and Recording Facts 232		
	(p) Preparation and Issuance of Summons 233		
	(q) Sharing of Issues 233		
§ 5.20	Burden of Proof 234		
§ 5.21	Revocation of Tax Exemption 234		
§ 5.22	Effective Date of Revocation or Modification 234		
§ 5.23	Technical Advice 234		
§ 5.24	Terminations 234		
§ 5.25	Inadequate Records 238		
§ 5.26	Revocation Due to Inadequate Records or Failure to Provide Requested		
	Information 240		
§ 5.27	Issues Subject to Declaratory Judgment 241		
§ 5.28	IRS Inability to Locate Organization 241		
§ 5.29			
§ 5.30	Suspended Issues 242		
§ 5.31	Law Research by Examiners 245		
§ 5.32	Closing Letters; Examination Reports 244		
	(a) Terminology 244		
	(b) Examination Report Forms 248		
§ 5.33	Examination Outcomes 245		
	(a) No-Change Examinations 246		
	(b) No-Change with Written Advisory Examinations 247		
	(c) Change Cases 248		
	(d) Presentation of Issues in Examination Reports 249		

- (e) Revocation of Exempt Status 250
- (f) Modification of Exempt Status 250
- (g) Reclassification of Public Charity, Foundation Status 251
- (h) Modification of Operating Foundation Status 252
- (i) Unrelated Business Issues 252
- (j) Private Foundation Excise Taxes 254
- (k) Non-Private Foundation Excise Taxes 254
- (l) Nonexempt Charitable Trusts Examinations 256
- § 5.34 Claims 257
- § 5.35 Basic IRS Examination Forms 258
 - (a) Explanation of Items 258
 - (b) Internal Transmittal Letter 259
 - (c) Report of Examination (Tax Changes) 260
 - (d) Report of Examination (Status Changes) 261
 - (e) Excise Tax Audit Changes 262

<u> </u>	§ 6.1	Six: Church Tax Audit Procedures Constitutional Law Background 264	263
	§ 6.2	Statutory Law Background 265	
	§ 6.3	Statutory Law Overview 266	
	§ 6.4	Inapplicability of Church Audit Procedures 267	
	§ 6.5	Church Records 270	
	§ 6.6	Church Tax Inquiries 271	
		(a) Reasonable Belief Standard 271	
		(b) Written Notice to Church 271	
	§ 6.7	Church Tax Examinations 273	
		(a) Notice of Examination 274	
		(b) Scope of Examination 275	
		(c) Examination Outcomes 276	
	§ 6.8	Summons Enforcement 277	
	§ 6.9	Prototype Scenario 280	
		(a) IRS Becomes Suspicious 280 (b) Notice of Church Tax Inquiry 281 (c) Notice of Church Tax Everying tion 281	
		(b) Notice of Church Tax Inquiry 281	
		(c) Notice of Church Tax Examination	
	C (10	(d) Conference 282 Two-Year Completion Rule 282	
	§ 6.10 § 6.11	Two-Year Completion Rule 282 Ninety-Day Completion Rule 282	
	-	Special Limitation Periods 284	
	-	Limitations on Additional Inquiries and Examinations 286	
	_	Limited Remedy for IRS Violations of Procedures 287	
	_	Exhaustion of Administrative Remedies Rule 288	
	§ 6.16	Interplay with Intermediate Sanctions Rules 288	
	0		
C	hapter S	even: Tax-Exempt Organizations Examination Issues	289
	§ 7.1	Categories of Tax-Exempt Organizations 290	
		(a) Single-Parent Title-Holding Corporations 290	
		(b) Charitable, Educational, and Like Organizations: General Rules	291
		(c) Religious Organizations 293	
		(d) Private Schools 294	
		(e) Public Interest Law Firms 295	
		(f) Educational Organizations 296	
		(g) Scientific Organizations 296	
		(h) Amateur Athletic Sports Organizations 297	
		(i) Social Welfare Organizations 298	
		(j) Local Associations of Employees 299	
		(k) Labor Organizations 299 (l) Agricultural and Harticultural Organizations 200	
		(l) Agricultural and Horticultural Organizations 300 (m) Business Leagues 301	
		(n) Social and Recreational Clubs 307	
		(n) Social and Recreational Clubs 302 (o) Fraternal Societies 304	
		 (n) Social and Recreational Clubs 302 (o) Fraternal Societies 304 (p) Voluntary Employees' Beneficiary Associations 305 	

	(q) Teachers' Retirement Fund Associations 307
	(r) Mutual and Cooperative Organizations 307
	(s) Cemetery Companies 309
	(t) Credit Unions 309
	(u) Small Insurance Companies 309
	(v) Crop Financing Organizations 310
	(w) Supplemental Unemployment Benefit Trusts 310
	(x) Veterans' Organizations 311
	(y) Black Lung Benefit Trusts 312
	(z) Multi-Parent Title-Holding Organizations 313
	(aa) Apostolic Organizations 313
	(bb) Political Organizations 313
	(cc) Health Maintenance Organizations 314
§ 7.2	Public Charity and Private Foundation Status 315
	(a) Donative Publicly Supported Organizations Issues 315
	(b) Facts-and-Circumstances Test 316
	(c) Service Provider Publicly Supported Organizations Issues 316
	(d) Supporting Organizations Issues 317
	(e) Public Safety Organizations 319
	(f) Workpaper Documentation 319
	(g) Private Foundations 320
	(h) Other Issues 321
§ 7.3	Nonexempt Charitable Trusts and Split-Interest Trusts 323
	(a) Nonexempt Charitable Trusts 324
	(b) Split-Interest Trusts 324
	(c) Abusive Trusts 325
§ 7.4	Unrelated Business Activities 326
§ 7.5	Reporting Requirements 326
§ 7.6	Fundraising 327
	(a) Advertisements of Fundraising Activities 327
	(b) Disclosure of Nondeductible Contributions 327
	(c) Disclosure of Quid Pro Quo Contributions 328
	(d) Unrelated Business Rules 328
	(e) Non-Cash Charitable Contributions 329
	(f) Internet Fundraising 330
	(g) Annual Reporting 331
§ 7.7	Gaming 332
	(a) Preexamination Analysis 332
	(b) Initial Contact Interview 333
	(c) Analysis of Bingo Activity 333
	(d) Analysis of Pull-Tab Activity 335
	(e) Unrelated Business Activities 335
	(f) Qualification for Exempt Status 336
	(g) Public Charity Status 336

- (h) Related Entities 337
- (i) Other Matters 337

Appendixes 339

- A Sources of the Law 339
- B IRS's "Good Governance" Principles (Draft) 355
- C Synopsis of the Law of Tax-Exempt Organizations 361
- D Exempt Organizations Fiscal Year 2008 Analysis 383

Table of Cases 389
Table of IRS Revenue Rulings 393
Table of IRS Revenue Procedures 395
Index 397

While: I want bookshop. com