

January 14, 2008

LMSB-04-1207-079  
IRM Impacted:4.1.4.28

MEMORANDUM FOR ALL LMSB INDUSTRY DIRECTORS  
DIRECTOR, FIELD SPECIALISTS  
LMSB HEADQUARTERS DIRECTORS

FROM: Robert L. Trujillo /s/Robert L. Trujillo  
Director, Planning, Quality, Analysis, and Support

SUBJECT: LMSB Procedures for Program Action Cases on Tax  
Return Preparers

This memorandum contains the LMSB Procedures for Program Action Cases (PACs) on Tax Return Preparers. These procedures were developed based on feedback from the Industries and Field Specialists organization. As the activity in the return preparer program is ever increasing, the need to formalize LMSB procedures was necessary.

### **Purpose**

The purpose of the return preparer program is to bring non-compliant return preparers into compliance. If a preparer's misconduct appears to be pervasive and widespread, consideration will be given to opening a PAC. PACs are preparer investigations where clients of questionable preparers are examined to determine whether preparer penalties and/or injunctive actions against the preparers are warranted.

### **Identifying a Potential PAC**

Referrals or leads can come from a variety of sources. The expectation for LMSB is that most of the potential cases will be referrals from LMSB field agents. The LMSB Return Preparer Coordinator (RPC) will have the responsibility to identify patterns of preparer abuse. The RPC, who will be embedded in PQAS, will act as the repository for information on preparers, return preparer penalties assessed, and referrals made by LMSB field agents.

### **LMSB PAC Approval Process**

When the return preparer's activity warrants the initiation of a PAC, the RPC will contact the Office of Tax Shelter Analysis (OTSA) for coordination to ensure there is no conflict with an open criminal investigation or tax promoter investigation. The RPC will prepare a briefing package documenting the abusive behavior of the preparer. The RPC and Territory Manager will brief the Director of Field Operations (DFO) about the preparer's abusive behavior. If the DFO concurs, the DFO and RPC/PQAS manager will request that the Penalty Steering Committee approve the initiation of a PAC. Upon approval, an initial maximum of 30 returns may be selected for examination. This number may be adjusted upward or downward as warranted by the findings of the PAC.

## **LMSB Penalty Steering Committee (PSC)**

The PSC members are the LMSB DFOs.

## **LMSB Field Offices (Industry and Field Specialist) Responsibilities**

- Raise and fully develop preparer penalty cases as appropriate.
- Provide information to the LMSB RPC on return preparers that were assessed preparer penalties or suspected of involvement in questionable practices.

## **LMSB Industry/Field Specialist Director Responsibilities**

- Designate a Planning and Special Programs (PSP) Program Analyst to participate on any approved PACs in its organization. The PSP Analyst will coordinate the ordering, screening, and assignment of the tax returns for the PAC.
- Designate a Territory Manager responsible for the examination of the PAC returns in a timely manner. If the workload crosses divisions or field offices, the workload may be worked by the cooperating division or field office. If the cooperation of another division or field office cannot be secured, the originating field office is responsible for bringing the PAC to a reasonable conclusion based on available resources and workload priorities. The RPC can be consulted to assist with these types of situations.

## **RPC Responsibilities**

- Plan and coordinate Examination activities related to return preparer activities with other functions, divisions, OTSA, and Campuses.
- Provide appropriate orientation to LMSB personnel.
- Develop additional guidelines and procedures as necessary.
- Ensure quality determinations and uniformity in applying return preparer provisions throughout LMSB.
- Monitor program progress and the applications of civil return preparer penalties, identify problem areas, and notify field offices and LMSB Headquarters of appropriate solutions.
- Receive and accumulate information on potentially abusive preparers and referrals by field offices and other sources.
- Communicate with examiners when a fraud referral is pending on a particular preparer whose penalty case investigation has begun.

## **OTSA Responsibilities**

- When notified by the RPC of a potential PAC, review the promoter database and contact its liaisons in the Lead Development Center (LDC)

- and Criminal Investigation (CI) for any potential conflicts with on-going promoter or criminal investigation.
- Provide notice to the LDC and CI of the acceptance and commencement of a PAC once notified by the RPC.

### **Operations Planning and Support Responsibilities**

- Deliver workload for the PAC to the examination groups working the cases.
- Provide assistance for the tracking and monitoring of PAC workload and researching preparer inventory.

The RPC is currently developing return preparer penalty program procedures for LMSB to further assist Examiners with PACs and preparer penalty cases.

If you have any questions or need additional information, please contact me at 510-637-2435. Field personnel may contact Senior Program Analyst/RPC Ardell Mueller at 847-303-7830.