

EAs on Capitol Hill • May Meeting Highlights

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2015 NAEA
NATIONAL CONFERENCE

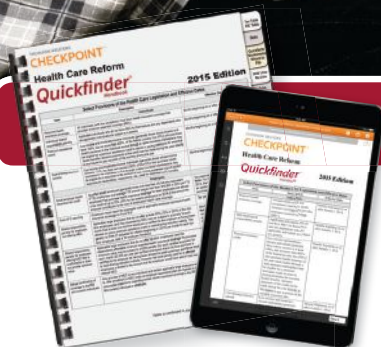
President's Message • Capitol Corner • 2014–2015 PAC Honor Roll
National Conference Information • To Be or Not to Be Social



Tax Topic #137

HEALTH INSURANCE

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QUICKFINDER HAS YOU COVERED.

From slips and falls to runny noses, eventually we all end up in the waiting room of a doctor's office. While health care is a universal need, your clients' health care related tax questions might be a little more unique. Health savings accounts? Health coverage tax credits? Employer paid or self-employed? No problem. We've heard it all before. That's because if it's out there, it's in here.

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— Individual Tax Preparer, IL

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11 2015 NAEA National Conference

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By Kerry Freeman, EA

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TEAM ME!



Terry Durkin, EA

We have been busy EAs since the end of tax season, managing all our extensions and representation work. Our executive vice president, Mike Nelson, CAE, resigned after six years, and we celebrated his contributions to NAEA during the state affiliate and board meetings on May 15 and 16. We wished Mike well on his next adventure.

We also welcomed our new interim EVP, John Fiegel, CAE, during the May meetings in Washington. John will be managing the day-to-day operations of the NAEA office until we find a permanent EVP. The board of directors have thoughtfully selected a seven-member Search Committee to work on finding a permanent EVP. I am confident the search firm we hire will find exceptional candidates for the Search Committee to interview. My expectation is that we will have a new EVP before next tax season.

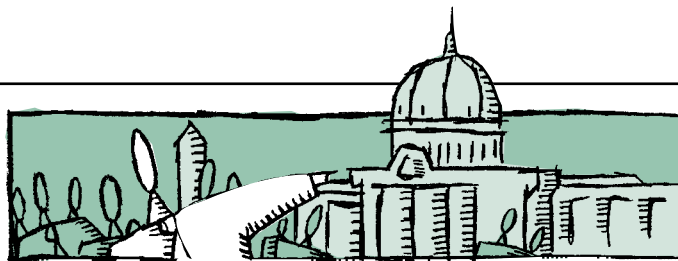
Our May 13 Fly-In Day was very successful, as over 100 EAs marched on Capitol Hill and discussed our three-point agenda with our senators, representatives, and their staff. The first point was to gain support and co-sponsors for the EA credential bills (H.R. 828 and S.422). Some of the Fly-In participants were fortunate to hear from Rep. Charles Boustany (R-LA) and Rep. Xavier Becerra (D-CA), both of whom are supporters of the EA credential bills. The second point was to stress the importance of tax code stability so that we can do proper tax planning for our clients. The third point was to encourage Congress to fix the

return preparer oversight issue by supporting legislation to allow the IRS to regulate tax preparers. NAEA supported the return preparer oversight plans before the *Loving v. IRS* decision changed it.

Thanks to all of you who wore out your shoes marching on Capitol Hill to advance the EA profession.

As I look at the success of the Fly-In Day over the years, and the many EAs who have participated, I think back to a saying a college basketball coach of mine had: "TEAM me." She made up practice shirts that said "TEAM" in big capital letters across the front of the shirt and "me" in small letters underneath TEAM. She acknowledged each of our strengths, whether it was in our point guard, in our power forward, or in our center. However, she made it very clear that to reach our goal of a winning season, we had to work as a team. Similarly, enrolled agents are individuals, but the successful Fly-In is a result of our collective hard work. "EA" is in the middle of our team, and the sky is the limit to what we can achieve together.

Let's keep making today, and every day, a grEAT day to be an EA! EA



... Not about Being Noticed, but about Being Remembered

By Robert Kerr

As I write this, we are fresh off of our seventh annual Fly-In Day. The weather was perfectly warm and sunny, our 105 advocates (a record high) were trained and primed, and the enrolled agent message was clear and consistent.

I am amazed—and humbled—every year by the dedication and enthusiasm of our EA advocates (please see photographs on pages 6 and 7, as well as on NAEA's Facebook page), all of whom made their way to DC on their own time and their own dime.

Government Relations Manager Justin Edwards once again made the trains run on time and turned the impossible—coordinating some 156 legislative office visits and turning those visits into 42 teams and 115 individual, personalized agendas—into the possible.

Some more thoughts: We don't just turn loose a gaggle of enrolled agents and tell

them to have at it. No, we make sure they know what to expect (though, our mantra of "be flexible" invariably comes in handy), right down to the hallway meetings and the walking meetings (where the elected official is heading for a vote and constituents walk with him or her).

Every conversation, however, starts with an introduction: "Hi, I'm Sally Smith and I'm an enrolled agent. Enrolled agents are tax experts ..." Any day on which 150 or so Capitol Hill visits start with a discussion of enrolled agents is a very, very good day.

EAs met with House Ways and Means Committee Chairman Paul Ryan, as well as staffers for both Senate Finance Committee Chairman Orrin Hatch and Senate Finance Committee Ranking Member Ron Wyden. Enrolled agents had a slew of member

meetings and met with the following taxwriters: on Ways & Means, members Todd Young (Indiana) and Patrick Tiberi (Ohio); and on Finance, members Pat Toomey (Pennsylvania) and Chuck Schumer (New York). Otherwise, the list of members is too long to list here, but suffice it to say that plenty of EAs went home with pictures of themselves and either a representative or senator.

Obviously, we had a great audience, and were fortunate enough to welcome Representative Xavier Becerra, a long-time EA supporter and the first House co-sponsor of H.R. 828, the EA Credential Act. Becerra, who represents a Los Angeles constituency in Congress, spoke at the Fly-In Day reception on a number of topics, including the enrolled agent bill, the need for return preparer oversight, and tax stability and reform.

Ultimately, though, it is not enough merely to have meetings on Capitol Hill. We also have to have a clear message.

1. **EA credential protection:** Enrolled agents in some states are prohibited from holding themselves forth as EAs, and we would like offices to sign on to simple, non-controversial, and no-cost legislation to rectify this problem.

About the Author

Robert Kerr has served as NAEA's senior director, Government Relations since 2004. Prior to joining NAEA, Kerr worked on the Senate Finance Committee Oversight and Investigation staff, where he assisted the committee chairman in providing oversight to, among others, IRS, U.S. Postal Service Office of Inspector General, and General Services Administration. He also spent a dozen years in a variety of positions at IRS and is well-versed in a variety of tax administration issues. Kerr holds an MBA from Case Western Reserve University and a BA from Mount Union College.

2. **Tax code stability:** Temporary tax code provisions, often renewed after they expire, are bad policy, make planning impossible for individuals and businesses alike, and either need to be made permanent or allowed to expire.
3. **Return preparer oversight:** An appellate decision in *Loving v. IRS* held that the agency lacked authority to institute a mandatory registered tax return preparer (RTRP) program. The agency's program was thoughtful and sound, and Congress should formally bless the RTRP program and discourage the agency from spending its limited resources on a confusing and largely meaningless interim program.

Sharp-eyed EAs (and we have a lot of those!) will note that this year's message mirrors last year's message. Congress is moving slowly (some would say glacially) and very little progress has been made in the past twelve months. These three issues were important last year and they remain critical to the profession. As a result, we are repeating our message (and we're not the only organization to choose a message and stick with it year after year, either!).

We are fortunate to have strong support and leadership from Ohio Senator Rob Portman and Louisiana Representative Charles Boustany, each of whom once again introduced legislation (S. 422 and H.R. 828, respectively) that would make it clear to all state regulators that any enrolled agent in good standing may hold him/herself forth as an enrolled agent (or an EA or E.A.). (More details in last issue's "Capitol Corner.") NAEA is committed to protecting your rights to practice, and individual EAs who will pound the pavement to support this legislation help the cause immeasurably.

We've also had recent advocacy victories elsewhere, and I'm pleased to share some more good news. We just closed the 2014–15 NAEA PAC year, which was our ninth, and continued our uninterrupted streak of record fundraising. We raised \$78,711 from 400 members, many of whom have been on board for many years. I wanted to thank all, newcomers and long-timers alike who support the PAC, which is a powerful tool when it comes to raising awareness of a tightly focused, influential group: those who are charged with writing tax law.

I'd like to make a special shout out to our Congressional Club donors—those who joined us at our new \$1,000 level. We were blessed with eighteen inaugural members, who were invited to a special evening reception hosted by then-incoming President Terry Durkin, EA. They were also invited to a members-only breakfast with Representative Charles Boustany, where they had front row seats for a wide-ranging discussion that included tax reform, an insider's view of legislative dynamics, Louisiana politics, and, of course, the EA credential bill.

In any event, you'll see a full list of donors on pages 8 and 9; for those interested in supporting us, a contribution form is on page 9.

And in case you missed the announcement, Karen Hawkins' last day as director, Office of Professional Responsibility will be July 11. In her six-plus years as director, she brought reasonable, yet firm, oversight to all levels of professional tax practice. In her farewell message she gave a hat tip to the enrolled agent community:

"There can be no doubt that recognition of the Office and the regulations governing practice before the IRS has increased exponentially in the past six years. Six years ago when I gave my first speeches (whether to tax professionals or to IRS personnel), few (outside the enrolled agent ranks) knew what the OPR was or did. Many tax professionals had no idea what Circular 230 was or that they were subject to its jurisdiction. Even fewer had any idea how the disciplinary process worked ..."

Karen was always a friend to the enrolled agent profession, and I appreciated both her accessibility—to me personally and to NAEA as an organization—and candor. Here's hoping we are as fortunate in her successor as we were with her.

Let's end where we began, with the Fly-In. While DC is a great place to visit—fantastic museums and monuments galore—the setting is secondary. We reminded attendees during the training that NAEA's primary goal is to raise awareness of enrolled agents. A fly-in is a wonderful platform to do just that. One of the most noteworthy observations participants made was that congressional staff (and elected officials, as well) commonly indicated they knew what an enrolled agent is and remembered us from visits in prior years.

Giorgio Armani once said that elegance is not about being noticed, but about being remembered. For our purposes, enrolled agents participating in our Fly-In Day are driving EA recognition; they are making sure that we are not only noticed, but also remembered. **EA**

The Seventh Annual NAEA GR Fly-In Day



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1. The GR team trained a record 105 enrolled agents for legislative visits.
2. NAEA PAC Steering Committee Chairman Alexander B. Thomson, EA, and incoming NAEA President Terry Durkin, EA, share a toast with first-year Congressional Club members.
3. NAEA Sr. Director, Government Relations Bob Kerr and Legislative Counsel Jeff Trinca chat with outgoing NAEA President Lonnie Gary, EA, USTCP, and NAEA PAC Steering Committee Chairman Alexander B. Thomson, EA, prior to Fly-In training.
4. House Ways and Means Chairman Paul Ryan and Matt Greenblatt, EA, discuss the EA Credential Bill in a candid photo taken by NAEA Secretary/Treasurer Laurie Ziegler, EA, in the chairman's office.
5. New NAEA board member Angela Radic, EA, with Ohio Congressman Patrick Tiberi, who represents her mother, Nancy Campbell, EA—also a Fly-In participant—in Congress.

Photos 4–8 courtesy of NAEA members. Photos 1–3 and 9–11 courtesy of Patrick Ryan.



- 6. Massachusetts Senator Edward Markey is flanked by smiling MaSEA members Joyce Mohr, EA, Terry Durkin, EA, Shubh Sethi, EA, and Alice McElhinney, EA, outside the Dirksen Senate Office Building.
- 7. New York's EAs were well represented at the 2015 Fly-In. Ten NYSSEA members gathered around Senator Chuck Schumer in one of his conference rooms in the Hart Senate Office Building.
- 8. Louisiana Congressman Charles Boustany, who is the original sponsor of H.R. 828, the EA credential act, sat down for breakfast with NAEA PAC's Congressional Club members.
- 9. Crystal Stranger, EA, checking in with NAEA Government Relations Manager Justin Edwards and NAEA Membership Director Katrina Holland, flew from Hawaii to advocate for enrolled agents!
- 10. NYSSEA Executive Director Jeff Gentner, EA, sports the latest in EA swag: a pin version of our brand new EA bumper sticker.
- 11. NAEA Secretary/Treasurer Laurie Ziegler, EA, poses with post-Fly-In Day keynote speaker, Congressman Xavier Becerra.



The 2014–2015 NAEA PAC Honor Roll

Thanks to the help of those listed below, NAEA PAC closed its books on its most successful year ever! We exceeded our fundraising goal for our ninth consecutive year with contributions from 400 members, whose generosity and consistent support make NAEA advocacy efforts possible. On April 15, 2015, we drew winners for the Second Annual NAEA PAC raffle. Patrick O'Hara, EA, won an iPad Air 2, and Merry Brodie, EA, won the Lenovo Yoga 2 tablet. Members attending the National Conference in August should know that we plan to host the Fifth Annual NAEA PAC Club Level Reception for Club Level contributors (Committee Chair's Club is \$100–\$249; Board of Directors' Club is \$250–\$499; President's Club is \$500–\$999; and the Congressional Club is \$1,000+). Please stay tuned for more news on NAEA PAC's latest developments.

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purposes, but also for pre-death planning. Howard S. Levy, JD, provides insight on how to determine if an IRS collections representative is playing by the rules in his in-depth article "The IRS' Power to Levy: How Far Can The IRS Go, and How Do You Stop Them?" Third, David S. Miles, EA, offers "The Beginner's Guide to Collection Representation." We hope to see you at the 2015 NAEA National Conference. For more information on the event, including detailed course descriptions, visit pages 28–34 of this issue.

To register, visit the NAEA website and click the 2015 National Conference ad.

DEATH & RETIREMENT PLAN OPTIONS

By Margaret Dunn, EA

The rules related to beneficiary designations (or lack thereof) are important to understand, not only for post-death purposes, but also for pre-death planning.

Whether your clients are looking for advice on how to distribute an estate in a tax-efficient manner, or they need advice on what to do with money they recently inherited, it is imperative to understand the rules and options for retirement plan distributions upon the death of the account holder. Prior to 2002, beneficiary distribution options were limited and relatively easy to understand. The introduction of the “stretch” option for beneficiaries, as well as other opportunities specifically designed for spousal beneficiaries, has made this a complicated topic.

When a Trust Is Not a Trust

For certain beneficiary trusts, commonly referred to as “see-through” or “look-through” trusts, a special option is available. To qualify for see-through treatment, the trust must meet the following four criteria:¹

1. The trust is valid under state law.
2. The trust is irrevocable or will become irrevocable upon the death of the plan holder.
3. The beneficiaries of the trust are clearly identifiable within the meaning of Sec. 1.401(a)(9)-4 A-1.
4. Documentation to support the identity of the

trust beneficiary has been provided to the plan administrator.

Example 1: *Doris named her grantor trust as the beneficiary of her IRA. The trust became irrevocable upon Doris’ death. The beneficiaries of her trust are her two adult children who are equal beneficiaries of all trust income and principal. Because the beneficiaries are individuals and their shares are clearly defined, Doris’ trust meets the criteria of a see-through trust, provided that the successor trustee notifies the plan administrator of their identities by October 31 of the year following Doris’ death.*

The regulations require that all potential beneficiaries be a human in order to qualify for see-through treatment. Naming a charity or an estate as a beneficiary, even as a contingent beneficiary, could eliminate recognition of see-through treatment for all trust beneficiaries. Beneficiaries of see-through trusts are treated as non-spousal or spousal beneficiaries, discussed below.

When creating a strategy for pre-death planning, if a taxpayer wishes to leave part of her estate to charity, it would be wise to create a separate IRA for that purpose. By having the charity be the beneficiary of IRA #1, while leaving individuals as the beneficiaries of IRA #2, the see-through treatment of IRA #2 can be protected.

Example 2: Margaret currently has one IRA (IRA #1) with her grantor trust named as the beneficiary. The beneficiaries of Margaret's trust are Margaret's two children (35 percent of trust income and principal each) and Margaret's local Humane Society (30 percent of trust income and principal). Margaret can protect the see-through treatment of her IRA by creating a second IRA (IRA #2) and transferring 30 percent of IRA #1 to IRA #2. The Humane Society would be named as the sole beneficiary of IRA #2 and removed as a beneficiary of her trust. Alternatively, Margaret could simply change the beneficiaries of her IRA to her children and the Humane Society directly using specific apportionment, and remove her trust as a beneficiary altogether.

Take the Money and Run!

Beneficiaries of retirement plan assets have always had—and still have—the option to withdraw the money from the account in full immediately. Upon withdrawal, the beneficiary will report any amounts withdrawn in the same manner they would have been taxable to the decedent. Withdrawals, whether done immediately or over the course of years, are not subject to the 10 percent additional tax on early distributions from qualified retirement plans, even if the decedent was not yet eligible to receive the funds without penalty.²

However, some beneficiaries may not want or need the funds and would prefer to keep their inheritance in a tax-deferred account. The length of time that distributions can be stretched is based on whether the account owner dies before or after his or her required beginning date (RBD) and the age and relationship of the designated beneficiary(ies). Designated beneficiaries are identified under the retirement plan's governing instrument, and distribution rules depend on whether the beneficiary is a spouse, a non-spouse individual, or no individual is named as the designated beneficiary.³

No Designated Individual Beneficiary

When no beneficiary has been designated, or an estate, charity, or trust has been named as beneficiary, and the decedent had not yet reached his RBD, the entire balance must be distributed to the estate or trust and taxed by the end of the fifth year following the year of death (five-year rule). If the decedent had reached his RBD prior to death, the five-year rule does not apply and the balance can be distributed to the estate or trust using the Single Life Expectancy Table and using the owner's age as of his birthday in the year of death. Under this method, the beginning life expectancy will be reduced by one for each subsequent year.

Example 3: George died unexpectedly at the age of sixty-one on April 15, 2014. George was unmarried, still working, and had no will or beneficiary designation on his IRA. The IRA value on April 15, 2014, was \$295,000. An executor was appointed by the court. Because the IRA was payable to George's estate and George had not reached his RBD, the entire IRA balance must be withdrawn and taxed no later than December 31, 2019. This can be done by lump sum in one year or in various amounts over the five years.

Example 4: Assume the same facts as Example 3, except that George had just attained age seventy-five the week prior to his death. His IRA was worth \$300,000 on December 31, 2014. The 2015 required minimum distribution (RMD) for the estate will be \$24,193.55 ($\$300,000 \div 12.4$, George's life expectancy as of his birthday in 2014 less 1).

An estate may designate a beneficiary of an IRA provided the beneficiary is designated by September 30 of the year following the date of the account owner's death. If this designation is made, the estate can avoid having to withdraw the account balance within five years of the account owner's death.

Example 5: Assume the same facts as Example 3. George's only surviving family member was his brother, Bob. The court-appointed executor designated Bob as the beneficiary of George's IRA before September 30, 2015. Bob may use the beneficiary distribution options of a non-spousal beneficiary.

Non-Spousal Beneficiary

When an account owner dies prior to reaching his or her RBD, non-spousal beneficiaries of a retirement plan may elect to:

- Withdraw the entire account balance by the end of the fifth year following the account owner's death.
- Calculate RMDs from the Single Life Expectancy Table using the beneficiary's age at the end of the year following the year of the account owner's death. Under this method, the beginning life expectancy will be reduced by one for each subsequent year.

Example 6: Phillip Smith died in late 2014 at the age of fifty-five. He named his two children, Kelly (age thirty) and Sally (age twenty-eight), as the beneficiaries of his \$200,000 IRA. Kelly opted to take all the money immediately to buy a house. Sally elected to have her half transferred into her own inherited IRA by December 31, 2015 (Phillip Smith IRA for the benefit of Sally Smith). Her 2015 RMD is \$1,841.62 ($\$100,000 \div 54.3$ Single Life Expectancy Table based on Sally's age of twenty-nine in 2015). Sally may take additional money from her inherited IRA at any time if she chooses.

If an account owner dies after reaching his or her RBD, the five-year rule does not apply, and the non-spousal beneficiary must calculate the RMD using the Single Life Expectancy Table based on the longer of:

- The beneficiary's age at the end of the year following the year of the account owner's death, reduced by one for each subsequent year, or

- The owner's remaining life expectancy at death, reduced by one for each subsequent year.

Example 7: Assume the same facts as Example 6, but Phillip was age seventy-three at the time of his death. Sally's 2015 RMD remains \$1,841.62 (the longer of her life expectancy or Phillip's at his birthday in 2014, the year of death).

To establish an inherited IRA, the beneficiary may leave the IRA in the name of the decedent or through a trustee-to-trustee transfer to an IRA set up in the name of the decedent for the benefit of the beneficiary. Non-spousal beneficiaries may directly roll over IRA benefits payable from a deceased employee's eligible retirement plan to an inherited IRA.⁴ When choosing to treat the IRA as an inherited IRA, the beneficiary must not add to, or otherwise comingle, the inherited IRA with other retirement accounts.

Spousal Beneficiary

A spousal beneficiary of a retirement account has several options available. The beneficiary can withdraw the entire balance of the IRA by the end of the fifth year following the year of death. The beneficiary can elect to treat the IRA as an inherited IRA, and if the account owner died prior to their RBD, the surviving spouse can wait until the decedent would have reached his or her RBD to begin receiving RMDs. If the account owner died after attaining the RBD, the surviving spouse can base the RMDs on either the surviving spouse's current age or the decedent's age at death, reducing the distribution period by one each year.

A spousal beneficiary can elect to treat the IRA as his or her own IRA.⁵ This election is only available if the surviving spouse is the sole beneficiary of the IRA and has an unlimited right to withdraw amounts from the IRA. The election may be made at any

When choosing to treat the IRA as an inherited IRA, the beneficiary must not add to, or otherwise comingle, the inherited IRA with other retirement accounts.

time by the surviving spouse and is made by redesignating via a rollover into an IRA in the name of the surviving spouse. Once the election is made, RMDs will be made in the year of election and each subsequent year with the surviving spouse as the owner under Sec. 401(a)(9)(B).

While Sec. 1.408-8-5 states that this election is not available if the IRA beneficiary is a trust and the surviving spouse is the sole beneficiary of the trust, two recent private letter rulings have allowed the surviving spouse to be treated as the direct beneficiary of the IRA, and, therefore, allowed to treat the IRA as his or her own.⁶

The election by a surviving spouse to treat the decedent's IRA as his or her own can create negative consequences in some situations. If the surviving spouse is below the age of 59½ and will need to withdraw funds from the IRA prior to attaining age 59½, such withdrawals will be subject to the 10 percent additional tax under Sec. 72(t)(2)(A)(ii). In that case, it would be wiser to leave the IRA in the decedent's name with the surviving spouse as beneficiary. As stated earlier, the surviving spouse can elect to treat the decedent's IRA as his or her own at any time. While the IRA remains in the decedent's name, the surviving spouse can take distributions free of the 10 percent penalty until he or she attains age 59½, and then redesignate the IRA as his or her own after that date.

Example 8: Ben died just after turning sixty-nine in 2014 with an IRA worth \$300,000. His widow, Ilene, was fifty-four at that time and was the sole beneficiary of Ben's IRA. Ilene estimated she would need to withdraw \$2,000 each month from the IRA to supplement her part-time wages until she could find a full-time job or begin drawing Social Security benefits. If Ilene does not elect to treat Ben's IRA as her own, she can withdraw the \$2,000 per month without paying the additional 10 percent tax under Sec. 72(t)(2)(A)(ii).

Another potential disadvantage of treating the decedent's IRA as the surviving spouse's own can occur when the surviving spouse is older than the decedent. By electing to treat the IRA as his or her own, the surviving spouse will be required to use his or her own age for RMDs.

In most cases, there are benefits when the surviving spouse elects to treat the decedent's IRA as his or her own. First, the surviving spouse can make additional contributions to the IRA, something not allowed with inherited IRAs. Second, the surviving spouse can designate beneficiaries to their own IRA. If he or she treats it as an inherited IRA, upon the death of the surviving spouse the beneficiaries will be required to take distributions over what remains of the surviving spouse's life expectancy.⁷

Accidental Election to Treat an IRA as the Surviving Spouse's IRA

A surviving spouse can be deemed to have made an election to treat an IRA as his own if he makes an additional contribution to the IRA or by not making any RMD under Sec. 401(a)(9)(A). This can occur when the decedent had attained the RBD, did not withdraw his or her RMD for the year of death prior to death, and the surviving spouse fails to take that RMD by December 31 of the year of death.

Example 9: Assume the same facts as Example 8, but Ben was seventy-three at the time of his death. His 2014 RMD was \$12,145.75. He did not withdraw his 2014 RMD prior to his death, and Ilene did not withdraw any funds from the IRA by December 31, 2014. Because Ben had attained

his RBD at the time of his death and his RMD was not withdrawn by Ben or Ilene by December 31, 2014, Ilene is deemed to have made the election to treat Ben's IRA as his own and base RMDs on her required beginning age. All withdrawals that Ilene makes from this IRA prior to attaining age 59½ will be subject to the 10 percent additional tax under Sec. 72(t)(2)(A)(ii).

Conclusion

Knowledge of the complexities of a decedent's retirement plan dispositions is paramount in assisting clients with a multitude of decisions they must make. Even with the best intentions, clients can make mistakes, such as misunderstanding professional advice given or neglecting to take RMDs from an inherited IRA. **EA**

About the Author

Margaret Dunn, EA, has been a tax practitioner in Monterey, California, for over thirty years. Margy now focuses on representation services and mentoring aspiring tax professionals. She is an instructor for NAEA, CSEA and IRS, and has also provided tax expertise as a panelist on IRS' *Tax Talk Today*.

To learn more about this topic, visit the NAEA Forums.

REFERENCES

1. Sec. 1.401(a)(9)-4 A-5(b)(1-4)
2. Sec. 72(t)(2)(A)(ii)
3. Sec. 1.401(a)(9)-4
4. Sec. 402(c)(11)
5. Sec. 1.408-8-5
6. PLR 201430026 and PLR 201430029, while not legal precedent, indicate the IRS' position on these IRAs retaining their character under similar circumstances.
7. Sec. 1.401(a)(9)-5(c)(2)

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THE IRS' POWER TO LEVY:

HOW FAR CAN THE IRS GO, AND HOW DO YOU STOP THEM?

By Howard S. Levy, JD

How do you know if an IRS Collections representative is playing by the rules?

Perhaps you've encountered an aggressive IRS revenue officer making demands for your client to sell her property or face an IRS seizure and sale. Maybe it is the IRS Automated Collection Service, threatening to levy your client's wages. Or maybe your client has a tax debt but has not been recently contacted by the IRS; all is blissfully quiet, but you are unsure where to turn next and what to expect.

The good news is that the IRS has procedures that it must follow before it can seize and sell property and levy wages. The IRS makes its playbook, the Internal Revenue Manual (IRM), available to the public. Part 5

of the IRM focuses on IRS collection procedures, and can be found online at www.irs.gov/irm/part5.

The IRS may not always follow its own playbook. Sometimes, the IRS may not even be aware of its own rules. This is rarely with bad intent; the IRM contains a vast number of procedures to follow, and an IRS agent realistically may not know every single one. The details often get lost in the agent's everyday workflow. But when it comes to protecting your client against unwanted IRS collection action, the details count.

Let's take a brief walk through the IRM and learn how far it permits the IRS to go in collecting taxes. Is it as far as the IRS revenue officer or ACS representative is telling you?

No Surprises in IRS Levy Action: Notice Required First

IRM Sec. 5.10.1, Pre-Seizure Considerations, is a checklist, if you will, for an IRS Collections agent to follow before he can levy. One important item on the checklist restricts the IRS' ability to levy whenever they want, without notice.

In most situations, the IRS cannot levy by surprise and without prior notice. As a prerequisite to levying, the IRM and IRC Sec. 6331(d) require the IRS to send a Final Notice of Intent to Levy, giving a taxpayer a heads-up before a levy is sent.

To determine if the IRS has sent your client a Final Notice of Intent to Levy, obtain an IRS account transcript and look for the following entry:

CODE	EXPLANATION OF TRANSACTION	DATE
971	Collection due process Notice of Intent to Levy – issued	06-15-2015

Supplement the IRS account transcript with a review of your client's IRS notices, focusing on finding the Final Notice of Intent to Levy, which should be coded either by the reference numbers LT11 or Letter 1058.

If your account transcript does not have an indicator that a final notice was sent, then the IRS cannot levy your client.

If the account transcript does state that a Final Notice of Intent to Levy was issued within the last thirty days, you have the right by law to stop all collection action by timely filing a collection due process appeal (CDP). This appeal transfers your case from the IRS Collections function to IRS Appeals for a hearing to determine resolution options that are less intrusive than levying (i.e., installment agreement, offer in compromise, currently uncollectible).

If it has been more than thirty days since the Final Notice of Intent to Levy has been issued, you still have the ability to protect your client from levy. The IRM gives the IRS some flexibility in accepting late-filed CDP appeals.

In most cases, the IRS will process a CDP appeal if it is filed within twelve months of the date of the Notice of Intent to Levy. The IRS calls these equivalent hearings, and they come with all the same rights as a timely filed hearing, except the right to take the IRS to Tax Court if there is a disagreement with Appeals over their decision.

Levy Is Prohibited When the Asset Does Not Have Equity

Even if the IRS has sent a Notice of Intent to Levy and no appeal was filed, it cannot take your client's asset if the seizure does not result in a recovery that can be applied to reduce tax liability. In other words, IRS seizures cannot be punitive in nature; there has to be a financial benefit to the government.

This is known as the No Equity Rule, which can be found in IRM 5.10.1.2 and IRC Sec. 6331(f).

For example, take a car that is worth \$5,000 that has a \$5,000 loan against it. This is an asset with no equity. Seizure would be prohibited since the only creditor that would be paid from an IRS sale is the bank that holds the car loan. Similarly, the IRS cannot take your client's house if it's worth \$150,000 and there is \$150,000 owed on it—there is no equity. These seizures would get a bank, not the IRS, paid, and that is not allowed. These seizures are considered uneconomical levies and are accordingly prohibited.

The rule against no-equity seizures eliminates the majority of potential IRS asset seizures, including those involving automobiles, personal residences, business equipment and machinery. If a revenue officer is threatening to take your client's property, whether it is a car, house, or business equipment, and there is no equity, respectfully question the authority to do so as it would be a prohibited uneconomical levy.

Protections for Property with Equity: Exemptions

Even if an asset has equity, IRC Sec. 6334(a) lists specific types of property that are protected from IRS seizures. IRC 6334(a) has been incorporated into IRM 5.10.1 and the IRS' pre-seizure checklist.

The protections of Sec. 6334(a) are known as exemptions. Exemptions are designed to prevent economic hardship by allowing a taxpayer to keep certain essential and necessary property.

Here are some of the exemptions granted to taxpayers:

- **Clothing and school books.** The IRS cannot take items of apparel and school books that are necessary for a taxpayer or for members of his family.
- **Furniture and personal effects in the taxpayer's household** that do not exceed

\$9,080 in value are protected from IRS seizure.

- **Books and tools necessary for the trade, business, or profession of the taxpayer** that do not exceed in the aggregate \$4,540 in value.

These exemptions permit you to assure your clients that the IRS cannot take their necessary clothing and household possessions.

And, if your client is, for example, a tradesperson, the exemptions granted to tools of the trade and business would include, for example, his table saw, nail gun, tool box, and hand tools, as well as office furniture, computers, and printers.

As applied to the small businessperson, the exemptions effectively prevent the IRS from putting him out of business by seizing small tools and business equipment.

Restrictions on the IRS Seizing a Personal Residence

First, it is important to know that the IRS does not sell houses. The Department of Justice does. And once the Department of Justice gets a case file from the IRS with a recommendation for a house seizure, it must first:

- File a lawsuit in federal court, naming the taxpayer as a defendant.
- Give the taxpayer the right to file an answer to the lawsuit and dispute the seizure before a federal judge.
- Convince a judge to then approve the seizure.

The Department of Justice's court filing is best compared to a foreclosure lawsuit.

Unlike other seizures, personal residences cannot be sold by internal IRS administrative action alone.

That's right! An IRS revenue officer cannot show up and take your client's house, unannounced. Revenue officers can recommend house seizures, but they do not effectuate them. A revenue officer has to get the IRS to approve the seizure, and then send a case file to the Department of Justice to file a foreclosure lawsuit in court.

A threatening revenue officer likely will not explain this process to you, and may make

the seizure appear more imminent and likely than it really may be. Although any IRS threat of seizure should be taken seriously, IRM 5.10.1 contradicts the immediacy of a Revenue officer's posturing and how far they can go in taking a taxpayer's house.

IRS Policy Statement 5-34 and Alternative Collection Methods

If the IRS is in position to make a seizure and is not limited in doing so, expect an IRS revenue officer to narrowly approach that asset as the first, best, and only method to get your client's tax liability paid.

However, your client likely does not want to have a valuable non-exempt, unprotected asset to be seized and sold by the IRS.

The revenue officer's narrow approach is a beginning, but it's not an end to the negotiation process. Your goal is to broaden the revenue officer's focus so that he or she does not focus solely on the asset. The revenue officer needs to consider the facts and circumstances surrounding the client's situation.

The buzz word in tough situations where seizure is possible is to develop "alternative collection methods" for the revenue officer's consideration. Alternative collection methods are designed to get the IRS paid in a manner that would be less intrusive than asset seizure and sale.

IRM Policy Statement 5-34 (IRM 1.2.14.1.8) mandates that a revenue officer is to seize and sell an asset only after thorough consideration of all factors and alternative collection methods.

Specifically, Policy Statement 5-34 states as follows:

"The facts of a case and *alternative collection methods* must be thoroughly considered before determining seizure of personal or business assets are appropriate. *Taxpayer rights must be respected.* The taxpayer's plan to resolve past due taxes while staying current with all future taxes *will be considered.* Opposing considerations must be carefully weighed, and the official responsible for making the decision to seize must be satisfied that other efforts have been made to collect

the delinquent taxes without seizing ... *Seizure action is usually the last option in the collection process."*

Additionally, IRM 5.10.1.6, Will Pay, Can't Pay and Won't Pay Factors, states that seizures will not be conducted on taxpayers who "will pay" or "cannot pay."

These categories include taxpayers who:

- Do not agree with the assessment and are working with the Service to properly adjust their account.
- Will fully pay their liability within a reasonable time frame.
- Require a reasonable period of time to sell an asset or secure a loan.
- Qualify for and submit an offer in compromise.
- Have no ability to make payments and have no distrainable assets (currently not collectible).
- Request and qualify for an installment agreement.

Seizures are targeted for taxpayers who simply won't pay.

If a revenue officer is threatening seizure of a house, car, or business equipment that has equity, make sure that you direct the agent to IRS Policy Statement 5-34, and respectfully remind the agent that seizure is the last option in the collection process, not the first. You will need to develop alternative collection methods for the IRS to collect the debt and for the revenue officer's consideration. Alternative collection methods include an installment agreement and an offer in compromise.

The IRM also states that the IRS is required to consider alternative methods of collection prior to seizure. In other words, if your client qualifies for an installment agreement, the IRS must consider accepting monthly payments rather than taking more intrusive methods, such as seizing and selling your client's assets.

IRM 5.10.1.3.2 also requires a revenue officer to conduct a risk analysis and compare the advantages and disadvantages of the alternative method of collection to the proposed seizure action.

Do not rely on the revenue officer to develop the alternative methods of payment for you; she will not. This is the job of the enrolled agent. A letter should be drafted and sent to the revenue officer discussing how the facts and circumstances weigh in the taxpayer's favor and support acceptance of a collection alternative to seizure. The following should be addressed as part of a presentation seeking alternative collection methods:

- **Current compliance.** Develop that the taxpayer is current and the cause of past non-compliance has been corrected.
- **Current financial condition.** Demonstrate that the taxpayer can meet current financial obligations, including federal tax deposits and estimated tax payments.
- **Future financial condition.** If pertinent, discuss how the taxpayer has made financial adjustments to help to increase cash flow to repay the IRS.
- **Collection statute of limitations.** Address whether the collection alternative provides for payment within the collection statute.
- **Interest in the asset.** Establish that the government's interest in the asset is protected (federal tax lien) and if there will be an increase in value during the term of the collection alternative.
- **Impact of the seizure on third parties.** Show how the seizure (i.e., auto, business equipment) will negatively impact the taxpayer and his family.
- **Yield.** Will the alternative collection method potentially yield more than the seizure and sale? It is the author's experience that an alternate collection method can be approved even if it falls short of repaying the tax liability if the facts and circumstances support it, e.g., the IRS may accept a payment plan that does not repay the tax debt as an alternative to seizing a vehicle that would result in a taxpayer being unable to work.

Additional Examples of When the IRS Cannot Levy

Even if the IRS has sent out a Final Notice of Intent to Levy, the IRM puts other limitations on the IRS' power to levy.

Those limitations are found in IRM 5.10.1.2, List of Prohibited Seizures, and include the following:

- **The IRS cannot levy while your client is in an installment agreement.** This includes any time during which a request for an installment agreement is pending with the IRS. It also includes a hold on levy during any appeal of a rejected, defaulted, or terminated installment agreement.
- **If your client has filed an offer in compromise,** the IRS cannot levy while the offer is pending, or during any appeal of proposed rejection of an OIC. Most offers can take a minimum of six to nine months to be investigated. An appeal of a rejected offer can also take six to nine months to be resolved. During this time, IRS enforcement by levy is on hold.

- **If your client has an innocent spouse claim filed with the IRS,** there cannot be any levy action to collect the liability until a decision is made on whether your client should be held responsible for the spouse's taxes.
- **Bankruptcy puts IRS collection enforcement on hold.** Bankruptcy law has an automatic stay, which automatically stops the IRS from levying once the bankruptcy is filed. The automatic stay also forces the IRS to immediately release any levies—no negotiation required.
- **If there is a reasonable doubt that the liability is correct,** IRS Policy Statement 5-16 (IRM 1.2.14.1.4) requires the IRS to forbear and cease collection activities.

The IRM is an able guide to tell us if the IRS has gone too far, and how to stop the process. The IRM is full of defenses and solutions to IRS problems. The IRS is not going to tell you those rules, but they are readily available. When you are negotiating with an IRS Collections representative, do not overlook the value of the IRM in formulating your defense and settlement approach. **EA**

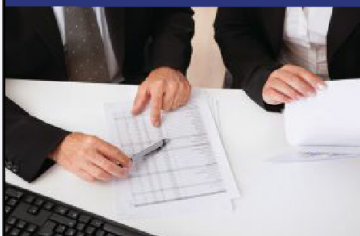
About the Author:

Howard S. Levy, JD, is a former trial attorney for the IRS and an instructor at NTPI. He has over twenty years' experience in IRS collection proceedings, Tax Court litigation, IRS administrative appeals, and the use of bankruptcy to resolve IRS controversies. Howard is a member of Voorhees & Levy LLC in Cincinnati, Ohio. He can be contacted at howard@voorheeslevy.com or at www.howardlevyirslawyer.com.

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THE BEGINNER'S GUIDE TO COLLECTION REPRESENTATION

By David F. Miles, EA

Effective collection representation comes from a combination of client management, an understanding of IRS rules, and industry experience. Rather than focusing on the nuances of the Internal Revenue Manual (IRM), we will focus on certain aspects of client management, together with practical input from field experience that will prove helpful in building a foundation for collection representation work.

To comprehend the current state of affairs within the IRS, one must look no further than the last five years of budget cuts. In response to the 2015 budget, IRS Commissioner John Koskinen stated in a January 2015

email to IRS employees, "... realistically we have no choice but to do less with less." Congress responded in April to the IRS rhetoric with a House Ways and Means Committee report that pushes back on the notion that the IRS' poor performance is the result of congressional cuts.

A practitioner must understand that issues seemingly outside the context of day-to-day collection work, like the budget wrangling in Washington, DC, can trickle down to every level of the IRS across the country. Consequently, being a good practitioner is no longer based solely on the breadth of one's knowledge of the IRM. Just as important is awareness of IRS trends in practice, insight into the

practical application of IRS rules, and how each can affect taxpayer expectations.

Introduction to Collection

The essence of collections work is the IRS' attempt to collect on a balance-due account or gain cooperation with a nonfiler account. The collection process begins when a taxpayer files a return and does not pay the balance due in full. An unpaid balance may be clear on the face of the return, but a case may also arise from an audit, simple math errors, mistaken refunds, or misapplied and returned payments. The pursuit of the unpaid balance will continue until the debt is paid in full, the IRS loses the right to collect through the expiration of the collection statute, or the taxpayer proposes and establishes an acceptable alternative resolution.

Two important initiatives within the last seventeen years introduced the law and policy that serve, in large part, as the basis of modern IRS collection procedure. The first is contained in the Restructuring and Reform Act of 1998 (RRA 98). RRA 98 created and defined many of today's collection policies by seeking to improve customer service and expand taxpayer rights. More specifically, collection policies, such as codifying the offer in compromise, granting statutory rights to certain installment agreements, and granting taxpayers appeal rights before enforcement action, all have their roots in RRA 98.

The Fresh Start Initiative, rolled out by IRS Commissioner Doug Shulman in 2012, is the more recent change. It is not considered quite the milestone of RRA 98, but it has made a significant impact nonetheless. The changes offered by the program are most commonly seen in the offer in compromise arena (where taxpayers were given the opportunity to recalculate future income), streamlined installment agreements (where greater flexibility now allows agreements on higher balances with less paperwork), and in the filing of notices of lien (where lien filing thresholds were increased for the first time in thirty years).

What Is Collections Thinking?

The first thing to be aware of is that dealing with IRS Collections is unlike other interactions with the IRS. Many taxpayers—and even tax professionals—approach collections with the same mindset that goes into making business decisions or preparing returns. However, IRS collections is not guided by the same principles that underlie such business activities. As opposed to IRS Exam, Collections is not concerned with the reasoning behind filing a return a certain way, the treatment of income, or even the merits of relevant business/tax issues. And, unlike a business, the IRS does not always make decisions based on what strategy will collect the most money. This is mostly due to IRS reform, most notably those reforms embodied in RRA 98, intended to create a more uniform and impartial system for taxpayers. Collections' approach is achieved by balancing the goal of collecting unpaid tax revenue, following IRM guidelines, and consideration of case-specific issues.

The term “compliance” is arguably the most important term in collection work. In the context of IRS collections, compliance means paying current taxes (i.e., the current employment quarter or the current income tax year) and having filed all returns through the present date, including valid extensions to file. Compliance is required both to qualify for a resolution and to maintain a resolution plan. It is also something that, if not accomplished, will most certainly lead to enforcement action. Therefore, it should always be a taxpayer's and a representative's first priority.

Rule of thumb: IRS Collections' focus is on protecting the government's interest, not the taxpayer's.

Collection Contacts

Making contact with the IRS is critical at any phase of a collection case. The question becomes who is the best person to contact at the IRS? The simplest answer is that it depends on where the case stands in the collection process. It is important to speak to the representative in control of a taxpayer's case, and early on that may be IRS customer service.

But, if the liability remains unresolved, the case is likely to move up the collection chain of command to the automated collection system and eventually to a revenue officer.

There are also other very effective methods of gathering information about a client's case that do not involve directly contacting the person in control of the case, such as Practitioner Priority Service and E-Services. Here, one can get the background of the liability, determine if compliance is being met, obtain transcripts, and understand where the case is assigned (if is not already clear).

Communicating with the IRS by phone and by mail should be expected in each case. Phone calls are very effective in achieving immediate relief—such as a stay of enforcement—whereas letters may be more appropriate to propose resolutions, counter an IRS proposed change, or to request penalty waivers.

Rule of thumb: Never end a call with IRS without a deadline for next contact.

Snail Mail

The collections process can be intimidating and time-consuming. However, it actually begins rather mildly. IRS Collections starts with mail, and lots of it. Each individual tax period of liability makes its way through the IRS' systemic mail campaign. The IRS' use of a single case summary letter is almost non-existent. Yet, however overly burdensome the letters may seem, they can actually be quite helpful to a tax professional by identifying where in the collection process the specific case stands.

For example, a taxpayer who is just receiving IRS CP 14 is being notified of the balance due. This is generally the first letter that is sent out in the collection process. Assuming no other periods of liability are owed, one can safely assume that there is no immediate threat of enforcement.

However, receipt of IRS Letter 1058 within the last thirty days presents a situation that is much more urgent. An immediate decision needs to be made on the need for filing a Collection Due Process hearing request, which is an appeal right offered through the issuance

of the 1058. Furthermore, if the appeal is not filed or it has been longer than thirty days since the 1058 was issued, a representative needs to be wary of levies at any time.

Rule of thumb: Not every piece of IRS collection correspondence warrants a response. Understanding the correspondence, what it is asking, and the consequences of forgoing an immediate response are important steps in collection work.

Know Your Taxpayer

A representative's interaction with the taxpayer client is vital to the successful resolution of a tax debt. This involves making sure a taxpayer has appropriate expectations for his or her case, is given correct information to use in making decisions, and is committed to pursuing a resolution to the issue. A representative is going to find it very difficult to resolve a tax liability without a taxpayer who is involved throughout the entire process.

IRS To-Do

- ☑ Have a properly completed Power of Attorney (POA) submitted to CAF and prepared for fax to PPS/ACS/RO.
- ☑ Nothing beats a call! Call IRS, PPS, ACS, or revenue officer depending on best idea of case location to determine who within IRS controls case.
- ☑ Inquire about all potential issues, including, but not limited to, balance due, filings, and deposit compliance.
- ☑ Acquire transcripts of all periods of liability (PPS, ACS, E-Services).
- ☑ Determine if there are pending deadlines.
- ☑ Set deadline with IRS for action.
- ☑ Inform client.

Many taxpayers fail to disclose the full extent of their collection trouble. This can either be due to ignorance or that the client is not realistically confronting the extent of the problem. Unfortunately, there are many scenarios in which a representative must rely on the client's explanation of the case, at least initially, and the representative should be aware of possible taxpayer ignorance at that stage.

Most importantly, a taxpayer must keep a representative abreast of compliance. Knowing that compliance is the backbone to a resolution plan, both the taxpayer and the representative need to continually revisit the issue of compliance to be sure it is maintained. The requirement is ongoing and so must be the conversation.

Rule of thumb: Always establish the facts of a case and monitor compliance.

Potential Consequences

The IRS uses several techniques for collecting on the debts it is owed, including, but not limited to, the filing of a Notice of Federal Lien (NFTL); issuing levies on wages, bank accounts, and other sources of equity or revenue; and offsetting money that a taxpayer may be due from another governmental agency, such as the Social Security Administration or state income tax refunds.

An NFTL filing is done by the IRS to put a taxpayer's creditors on notice of the existence of a federal tax debt. An NFTL differs from a statutory lien, which is created automatically ten days after a demand for payment is made. Historically, an IRS NFTL was a foregone conclusion in almost any collection case. Certain IRS policy changes and budget constraints have changed my previous assumptions on this topic. Presently, if a practitioner begins a Collections case in which there is no NFTL, discussing the implications of the eventual NFTL or how to avoid the NFTL are important conversations to have with a taxpayer.

Enforcement is the IRS' most aggressive form of collecting money (IRC Sec. 6331, IRM

Parts 5.10 and 5.11). The IRS has the power to levy money and/or property, but the question relating to when the IRS will levy and why it may happen can have myriad answers. Despite the many reasons as to when and why a levy may be issued, the most common are missed deadlines or lack of contact.

Many fear the IRS' power to seize homes and cars. But with only 432 seizures in 2014, compared to almost two million levies, clearly it is not IRS' preferred action. Interestingly, there is actually no legal distinction between a levy and a seizure, but there are different procedures that must be followed by the IRS. Therefore, there is a distinct practical difference between levies and seizure from the IRS's perspective, which results in far fewer seizures.

Rule of thumb: The IRS will take a taxpayer's money, but usually not without first giving the taxpayer or representative an opportunity to avoid it.

Getting Started

Practitioners should be familiar with Circular 230 as well as Publication 1 (Your Rights as a Taxpayer), Publication 594 (The IRS Collection Process), and Publication 1660 (Collection Appeal Rights) prior to engaging in collection representation. A collection case should always begin with an engagement letter. This should define the circumstances of the case, what will be done, and the limitations or exclusions to the work.

In most every case, IRS Collections is interested in getting the details of the taxpayer's financial condition. For businesses, this is usually done by completing Form 433-B. Individuals should be completing Form 433-A. These financials serve as the foundation to any discussion of a resolution regardless of the ultimate goal being an offer in compromise, an installment agreement, or uncollectible status—a situation in which the IRS does not demand back-tax payments.

Very few resolutions are based solely on the amount owed or a period of time. However, the IRS' Fresh Start Initiative broadened the

Client To-Do

- ✓ Acquire signed engagement.
- ✓ Acquire POA covering enough time and tax matters necessary to identify all issues.
- ✓ Provide 433-A and/or 433-B for client to begin drafting.
- ✓ Ask client to describe situation in their own words and provide any recent documentation (ninety–120 days) from IRS.
- ✓ Ask client if compliance is being met.
- ✓ Ask client if there are pending deadlines.
- ✓ Prepare client for your initial interaction with IRS: what it will entail and what will be achieved.

streamlined installment agreement to qualify individual taxpayers owing up to \$50,000, and it increased the period of time to pay from five years to six.

Other rules found throughout IRM Part 5 highlight opportunities that both serve taxpayers' best interests and limit resolutions in other cases. For example, individual taxpayers can be allowed up to one year at a lower installment agreement payment in order to make necessary lifestyle changes. On the other hand, the IRS' offer in compromise program allows the

government a number of reasons to reject an offer because it is "not in the government's best interests." Knowing such nuances is important to successfully guide a taxpayer client through the collection process.

Rule of thumb: Get the taxpayer started on a 433 immediately in order to identify issues that may impact your recommendations and goals.

Bringing It All Together

Understanding how the IRS runs its collection system is an important step in good

collection work. Currently, what we have is an IRS system that is in desperate need of resources to effectively address its mission. Understanding that issue, together with one's familiarity of the IRM and a keen sense of client management, usually means that a successful practice is not far off.

Developing proficient collection work takes time and, most of all, experience. Circumstances, taxpayers, and IRS representatives change from case to case. The key to a successful interaction with Collections is to be empowered as a professional representative and advocate rather than simply serving as a conduit of information between parties. The sooner you can prepare your client for the reality of his or her own situation, the easier accomplishing their goals will become. **EA**

About the Author:

David F. Miles, EA, is a consultant with 20/20 Tax Resolution. He has been practicing taxpayer representation for eighteen years. He has been interviewed about a range of tax topics for various news articles, as well as television, and was a panelist on *Tax Talk Today* in November of 2012. David can be reached at dmiles@2020taxresolution.com.

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DEATH AND RETIREMENT PLAN OPTIONS

1. A non-spousal individual beneficiary of a retirement account must withdraw the entire balance of the retirement account within five years of the account holder's date of death.

- A. True
- B. False

2. A surviving spouse elects to treat an IRA as his or her own IRA by:

- A. Doing nothing
- B. Rolling over the decedent's IRA into an IRA in the spouse's name at any time
- C. Taking distributions based on the decedent's age
- D. Changing the beneficiary designation on the decedent's IRA

3. A non-spousal individual beneficiary of a retirement account may roll the decedent's IRA into his or her own IRA.

- A. True
- B. False

4. A non-individual beneficiary of an IRA may:

- A. Take distributions based upon the decedent's age if the decedent died before attaining required beginning date
- B. Defer distributions until the decedent's required beginning date
- C. Withdraw all amounts within five years of decedent's death
- D. Treat the IRA as an inherited IRA

5. A surviving spouse is never subject to the 10 percent additional tax on withdrawals.

- A. True
- B. False

6. A non-spousal individual beneficiary of a retirement account is never subject to the 10 percent additional tax on withdrawals.

- A. True
- B. False

7. To qualify for "see-through" treatment, a trust beneficiary must meet which of the following criteria:

- A. The trust is valid under state law
- B. The trust is irrevocable, or will become irrevocable upon the death of the plan holder
- C. The beneficiaries of the trust are clearly identifiable within the meaning of Sec. 1.401(a)(9)-4 A-1
- D. Documentation to support the identity of the trust beneficiary has been provided to the plan administrator
- E. All of the above

IRS' POWER TO LEVY

8. Before the IRS can levy, it must first:

- A. Do nothing. The IRS can levy whenever it wants
- B. Send a taxpayer a Final Notice of Intent to Levy
- C. Make a personal visit to a taxpayer's home or office
- D. Audit a taxpayer's books and records.

9. Before seizing and selling a personal residence, the IRS must first:

- A. Have the Department of Justice file a lawsuit to foreclose
- B. Send out a Final Notice of Intent to Levy
- C. Secure a court order permitting the sale
- D. All of the above

10. The No Equity Rule requires the IRS to:

- A. Treat taxpayers equitably and with fairness
- B. Seize assets that only have equity in them
- C. Make seizures that will result in a reduction of a tax liability
- D. Both B and C

11. Policy Statement 5-34 states that seizure action should be considered the last option in the collection process.

- A. True
- B. False

12. The IRS cannot levy when a taxpayer has filed:

- A. An offer in compromise
- B. A request for an installment agreement
- C. A tax return
- D. Both A and B

13. If there is reasonable doubt that the liability is correct, IRS Policy Statement 5-16 requires the IRS to forbear and cease collection activities.

- A. True
- B. False

14. The IRM directs collection employees to seize assets of a taxpayer who:

- A. Won't pay
- B. Will pay
- C. Can't pay
- D. Has assets without equity

15. Alternative collection methods require:

- A. Demonstrating current compliance
- B. Showing the potential impact of a seizure on a third party
- C. An ability to enter into an installment agreement or qualify for an OIC
- D. All of the above

BEGINNER'S GUIDE TO COLLECTION REPRESENTATION

16. Two directives that have had a big impact on collection policy are:

- A. RRA 98 and IRS 14
- B. Fresh Start and the Commissioner's Plan
- C. TIPRA and OIC
- D. RRA 98 and Fresh Start Initiative

17. IRS collection is most concerned with:

- A. Recovering revenue while considering rules and case specifics
- B. Referring returns to Exam
- C. Making the best deal
- D. Seizing assets

18. IRS seizure of taxpayer assets is not a common IRS enforcement tool.

- A. True
- B. False

19. A representative should expect to both write and call the IRS as a means to communicate in any given case.

- A. True
- B. False

20. An IRS levy may be used to take a taxpayer's right, title, and interest in the following:

- A. Cash in banks
- B. Social Security
- C. Wages
- D. All of the above



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Special Events

When you're not immersed in twenty-four hours of challenging and interesting IRS-approved CE classes, you'll be afforded additional opportunities to expand your horizons. Hear Karen L. Hawkins, [soon-to-be former] director of the IRS Office of Professional Responsibility (OPR), present the plenary keynote prior to our Sunday night welcome reception. Hawkins brings more than thirty years of private tax practice experience—plus six years at the helm of OPR—to the National Conference. She will reflect on the accomplishments and setbacks during her tenure and speculate on what may be in OPR's future.

Immediately following her presentation, visit with friends old and new at the welcome reception Sunday evening from 6:00 pm–6:30 pm. Next, keep the festivities going as you support the profession by attending "Sharing Pearls of Wisdom: A Dinner and Auction to Benefit the NAEA Education Foundation (cost: \$150)."

A "Lunch and Learn" will be held on Monday, August 3 at noon. Join Margaret (Margy) Dunn, EA, for a session that will

focus on the crucial question: What's your exit strategy?" Among the topics discussed will be selling your practice, value at time of sale, and maximizing your sale price down the road. In addition to lunch, you'll receive one credit of NAEA CE (cost: \$45).

Monday evening is an opportunity to participate in the future of NAEA. Let your voice be heard by attending the NAEA Annual Meeting. Celebrate on Tuesday night with the graduation ceremony of the newest group of NTPI fellows, as well as the presentation of NAEA's national awards. On Wednesday, NAEA holds its board of directors meeting. All members are invited to attend and participate in the governance of the Association.

Hotel Information

All events happen at the Cosmopolitan of Las Vegas, one of the most luxurious hotels on the strip. Be sure to take advantage of the special NAEA discounted room rate at the Cosmopolitan. Call 702.698.7575 or 855.435.0005 to reserve by phone. Mention the 2015 NAEA National Conference or NAEA. Room rates will be \$164 for the evenings of Friday, July 31 and Saturday, August 1 and \$144 between August 2 and August 6 (single or double plus tax per night) for program participants. Reservations must be made by Friday, July 3. After that, reservations will be accepted on a space-available basis only, and the rate is no longer guaranteed.

Registration

Advance registration ends Friday, July 24. However, please be aware that due to space constraints some tracks may fill well before this date. Register early to claim your spot!

Registrations are being accepted online only. Please visit www.naea.org.

LEVEL 1

Overview of Representation – 1 CE (Sun, 8:00 am – 8:50 am)

Sherrill L. Trovato, EA, USTCP

This overview course covers essential

information practitioners must know to successfully represent their clients administratively before today's IRS. Topics discussed include an overview of the IRS' structure and how the current environment impacts taxpayers, best practices in representation, and the general procedures practitioners should follow to effectively represent clients.

Introduction to Collections – 3 CE (Sun, 8:50 am – 11:40 am)

David F. Miles, EA

This is an introductory course to IRS Collections. The course will cover the fundamentals of the IRS collection system in broad strokes and the skill set needed by those Circular 230 practitioners just beginning to represent clients before Collections. Attendees should expect to gain specific IRM knowledge essential to navigating IRS Collections while preparing for collection resolution alternatives such as the OIC, installment agreements and currently not collectible. Also to be discussed are the appropriate timing and use of the collection due process and collection appeals program, as well as the taxpayer advocate's service to accomplish client goals.

Communicating with the IRS & Notices – 2 CE (Sun, 1:00 pm – 2:40 pm)

LG Brooks, EA

This course explores the fundamentals of communicating with the IRS in response to the most frequent types of IRS notices: summary assessment notices, CP-2000, and basic balance due/collection notices. Among the topics covered are which IRS units to contact, utilization of IRS policies to obtain effective results, levels of authority, deciphering computer codes and acronyms, as well as general tax communication techniques.

Tax Research & Resources – 2 CE (Sun, 3:00 pm – 4:40 pm)

Francis X. Degen, EA, USTCP

Research is more than looking for an answer in an IRS publication. Circular

230 practitioners need to understand what constitutes authority. This session will identify the sources of authority and discuss the importance of the various types of authority. The IRS directs its examiners to reach conclusions that reflect correct application of the law, regulations, court cases, revenue rulings, etc. This session will help Circular 230 practitioners to likewise reach correct conclusions using the sources of authority.

Introduction to Criminal Investigations – 2 CE (Mon, 8:00 am – 9:40 am)

Robert E. McKenzie, EA, JD

The Criminal Investigations (CI) Division investigates suspected violations of criminal tax laws, including attempted tax evasion, the filing of false or fraudulent returns, the willful failure to file returns, currency reporting violations, and money laundering. In this course, learn why CI investigates a case, what it investigates, the criminal prosecution process, and the role of the enrolled agent in the criminal investigation.

Introduction to Examination – 4 CE (Mon, 10:00 am am – 2:40 pm)

Alan L. Pinck, EA

In this session we will discuss the different types of audits and the steps needed to best represent your client. We will move through the audit process, starting with how necessary a well-stated engagement letter is to interviewing your client. We will review organizing the requested records, dealing with the auditor, and when and how to close the case.

Innocent Spouse – 1 CE (Mon, 3:00 pm – 3:50 pm)

Sherrill L. Trovato, EA, USTCP

Can taxpayers be relieved of joint and several liabilities after filing a tax return with a spouse? This introductory course demonstrates the Sec. 6015 provisions that grant relief to qualifying taxpayers. Using Form 8857 and relevant Tax Court cases, the class illustrates how the IRS evaluates the various relief components.

Engagement Letters – 1 CE

(Mon, 3:50 pm – 4:40 pm)

Monica Haven, EA, JD

Why are engagement letters considered a best practice in tax preparation and controversy representation? What information should be included in an engagement letter? Should the practitioner use different types of engagement letters depending upon the service provided? This introductory class discusses the importance of engagement letters at all levels of the representative services to both engage and disengage clients.

Introduction to Appeals – 2 CE

(Tues, 8:00 am – 9:40 am)

Sherrill L. Trovato, EA, USTCP

What is the next step when an Exam result is unsatisfactory or the IRS rejects an OIC and the taxpayer files for a collection due process hearing? This introductory class discusses the representative's role in preparing for and effectively presenting at an Appeals conference for both Exam and Collections cases.

Non-Filers – 2 CE

(Tues, 10:00 am – 11:40 am)

Jeffrey A. Schneider, EA

This class discusses how to represent non-filers during the preparation of past-due tax returns and how to deal with the resolution of IRS issues related to these returns, including examination and collections. The course will include IRS computer-matching documents and notices, substitutes for return, penalty abatement, and under-reporter issues.

Ethics for the Tax Practitioner – 2 CE

(Tues, 1:00 pm – 2:40 pm)

Aaron Blau, EA, CPA

Get to know the structure and functions of the Office of Professional Responsibility, and become intimately aware of the provisions that lay within Circular 230. Discuss real-world examples of practice and how they relate to Circular 230 and professional ethics standards.

Transcripts and**CSED Extenders – 2 CE**

(Tues, 3:00 pm – 4:40 pm)

Bill Nemeth, EA

IRS transcripts contain a wealth of information on every taxpayer.

Transcript analysis (with examples) can provide the following information:

- Estimated tax payments for current year
- IRS changes to returns which have been filed
- Returns filed and not filed
- Filing status & number of exemptions
- SE Tax
- Returns filed by the IRS on behalf of the taxpayer
- CSED dates
- Tolling of collection clock
- Collection activity
- Federal tax liens filed and removed
- Info on possible penalty abatement
- Audit flags
- Strategies to minimize CP2000

LEVEL 2**Non-Filers and SFRs – 3 CE**

(Sun, 8:00 am – 10:50 am)

Catherine A. Clow, EA

The purpose of this session is to fully understand the issues that we need to address when we are dealing with the nonfiler. Our goal is to help you understand that nonfilers are not your “normal” taxpayer. There has usually been some event that has transpired in their lives that has led them to be classified as a nonfiler. These events have usually been life changing to the point that the taxpayers remove themselves from their normal routines.

FOIA – 1 CE

(Sun, 10:50 am – 11:40 am)

Salvatore P. Candela, EA

After completing this session, attendees should feel confident with knowing when and how to prepare a FOIA request, as well as analyzing the documents received.

Form 1040 Audits – 4 CE

(Sun, 1:00 pm – 4:40 pm)

Alan L. Pinck, EA

The purpose of this course is to familiarize attendees with the techniques necessary to represent clients before the Examination division of the IRS. We will discuss the three types of Examinations (audits) and show a typical office audit through a case study.

Examination Appeals – 2 CE

(Mon, 8:00 am – 9:40 am)

Robert G. Hartmann, EA

During this segment of Level 2 instruction, you will learn the technique of filing a protest with Appeals, how to represent your client during the process, and the Appeals options available to your client.

Trust Fund Recovery Penalties – 2 CE

(Mon, 10:00 am – 11:40 am)

Marc Dombrowski, EA

In a case where your business client has failed to pay 941 taxes, IRS looks to aggressively collect those taxes. These are trust-type taxes, and IRS believes the taxpayer should have had these funds in the first place.

Audit Reconsideration – 1 CE

(Mon, 1:00 pm – 1:50 pm)

Catherine A. Clow, EA

The purpose of this session is to give you another tool for further representation of your clients in dealing with the IRS. You should be able to identify if your client is a candidate for using this procedure to resolve an issue they may be having, and feel confident that your request will be reviewed impartially.

Collection Appeals – 3 CE

(Mon, 1:50 pm – 4:40 pm)

Aaron B. Whitaker, Jr., EA

In this course, we will:

1. Determine what enforcement actions by Collections are appealable to Appeals.
2. Understand the scope of authority of Appeals on Collections enforcement issues.

3. Determine if enforcement actions by Collections employees may be appealed through other avenues and what those avenues are.
4. Understand the background and authority of IRS employees who will be handling appeals of Collections enforcement actions.
5. Determine what actions must be taken and what forms must be filed to file a proper and timely request for a collection appeal.
6. Determine what information is needed to file an effective appeal.

Enforced Collections – 2 CE

(Tues, 8:00 am – 9:40 am)

Donald Rosenberg, EA

This section of Level 2 is intended to provide attendees with an understanding of how the IRS attempts to collect an outstanding liability when voluntary compliance is not forthcoming.

Collection Resolutions & Form 433 – 3 CE

(Tues, 10:00 am – 1:50 pm)

Marc Dombrowski, EA

The purpose of this session is to introduce the tax controversy practitioner to the main forms used in analyzing and resolving collection cases with the IRS.

After completing this session, you should be familiar with the various collection information statements (CIS) that can be used by the various Collections personnel of the IRS, the proper form to use for specific cases, and be able to help clients with their preparation and submission.

Ethics – 2 CE

(Tues, 1:50 pm – 3:50 pm)

Amy L. King, EA

The purpose of this session is to discuss ways in which we can merge proper Circular 230 practices into our IRS representation cases by discussing ethical situations with our enrolled agent peers.

Representation Wrap-Up – 1 CE

(Tues, 3:50 pm – 4:40 pm)

Geri Bowman, EA, CPA, USTCP

This final portion of Level 2 allows students to apply what they've learned as they review a case from the initial client meeting to final resolution.

LEVEL 3

Correcting Bad Actions of Clients – 2 CE

(Sun, 8:00 am – 9:40 am)

LG Brooks, EA

This hands-on problem-solving case study will explore ways to return a taxpayer to compliance by solving the unique exam, collection, or other misstep issues clients often bring into our offices. Solutions may or may not be obvious. Interact with classmates to solve self-created client problems or encouraged by prior preparers or representatives. Expand your skills and learn procedures that will enable you to extricate your clients from the abyss of prior bad advice or self-creativity, while protecting yourself.

Statute of Limitations – 2 CE

(Sun, 10:00 am – 11:40 am)

Francis X. Degen, EA, USTCP

The Internal Revenue Code requires IRS to assess, refund, credit, and collect taxes within specific time limits. These limits are known as the statutes of limitations. The general rules are easy: three years to assess tax and ten years to collect the tax after assessment. This session will look at some of the exceptions to the general rules, including topics such as amended returns, FATCA, and SFRs.

Advanced Criminal Tax Issues – 2 CE

(Sun, 1:00 pm – 2:40 pm)

Robert E. McKenzie, EA, JD

The IRS Criminal Investigation Division has increased its efforts to prosecute dishonest taxpayers over the last few years. Although every client who becomes the subject of a CI investigation should be referred to an experienced white collar defense attorney, non-attorney tax practitioners have an important role in the defense of the taxpayer.

You will learn of the IRS' current CI initiatives. This course will discuss the best ways for the non-attorney to assist a client and his attorney during a criminal investigation by reviewing tax crimes, IRS CI procedures, and clients' rights.

Representation Ethics – 2 CE

(Sun, 3:00 pm – 4:40 pm)

Sherrill L. Trovato, EA, USTCP

How do you handle the shades of gray that regularly occur in your practice? Under Circular 230, what is your duty to the client, to the IRS, and to yourself? This interactive intermediate class uses real-world scenarios to pose ethical dilemmas that may appear when representing taxpayers.

Bankruptcy and Advanced Collections – 3 CE

(Mon, 8:00 am – 10:50 am)

Howard S. Levy, Esq.

Discover how bankruptcy can help your clients out of a tough bind with the IRS. We will review how the most common bankruptcies work (Chapters 7 and 13); learn the bankruptcy rules that permit taxes to be eliminated in bankruptcy; cover the benefits of bankruptcy that are not available in direct negotiations with the IRS; and review how bankruptcy can be a better alternative to offers in compromise, installment agreements, or uncollectible.

Advanced Appeals – 3 CE

(Mon, 10:50 am – 2:40 pm)

Salvatore P. Candela, EA

This course will discuss Appeals jurisdiction in audit, trust fund recovery penalty, collections due process, and innocent spouse matters. Emphasis will be placed on case development from Exams income tax audit to Appeals. We will discuss the preparation of a protest after issuance of a thirty-day letter, how to prepare for the conference at Appeals, the new review procedures at Appeals, and the negotiation of a favorable settlement. Special emphasis will be placed on negotiation skills. After the course, participants

should have: (1) an understanding of how to prepare an audit protest, (2) an awareness of how to prepare for an Appeals conference, and (3) increased skills to successfully negotiate and settle a case before Appeals.

Advanced Trust Fund Recovery – 2 CE
(Mon, 3:00 pm – 4:40 pm)
Howard S. Levy, Esq.

Learn how IRS pursues business owners and their employees seeking to impose personal liability for unpaid withholding taxes. This course will cover IRS procedure in developing its case against owners and employees, case study examples of likely trust fund scenarios, appeals procedures to dispute imposition of the trust fund penalty, and dealing with collection problems caused by trust fund penalties. Emphasis will be placed on who IRS targets for trust fund taxes. Available taxpayer defenses to the penalty, including lack of responsibility and willfulness, will be explored.

Advanced Examinations – 4 CE
(Tues, 8:00 am – 11:40 am)
Claudia A. Hill, EA

From the moment your client receives the invitation from IRS until the entire matter is resolved, stress is introduced in their lives, and possibly yours. This session follows the events and actions from the initiation of a field examination all the way through the decision that is reached in an unagreed case. We look at the procedures the representative takes from the engagement letter, power of attorney, meetings with the revenue agent and meetings with the taxpayers, and, finally, evaluating the case for settlement.

Preparing Form 656 & 433-A OIC – 4 CE
(Tues, 1:00 pm – 4:40 pm)
Howard S. Levy, Esq.

Attendees will be given a hands-on approach to IRS Form 433-A OIC. In breakout groups we will take a sample case line by line through the 433-A OIC and produce a Form 656 IRS Offer in Compromise. Students will

be able to discuss their answers with the class and hear the instructor's techniques on this detailed resolution topic.

GRADUATE LEVEL

Representation Update – 2 CE
(Sun, 8:00 am – 9:40 am)

Robert E. McKenzie, EA, JD

Over the past several years the IRS has seen its budget cut significantly. There has been a corresponding reduction in the quality of service provided by IRS. The Service has dramatically reduced its enforcement efforts. This class will examine the methods IRS is using in this new enforcement environment. We'll discuss new IRS Examination priorities and procedures, IRS Collections priorities and procedures, IRS criminal investigation initiatives, recent important developments for practitioners, the taxpayer advocate services report on problems in the tax system, new procedures at IRS campuses, and the impact of new IRS leadership.

Advanced IRS Summons Authority & Defenses – 2 CE
(Sun, 10:00 am – 11:40 am)
LG Brooks, EA

This presentation is designed to review, discuss, and recognize various IRS negotiation procedures and to explore the application of these procedures with regard to the administration and representation of taxpayers before the IRS.

Aggressive Strategies for Clients with Income and Assets – 2 CE
(Sun, 1:00 pm – 2:40 pm)
Salvatore P. Candela, EA

In pursuing lower-income tax payments for their wealthy clients, true tax professionals already know it is never necessary to resort to tax fraud. This session will focus on using some of the less understood tax strategies—ones that are well within the law—to reduce income taxes for clients with substantial income and assets ... tax strategies your clients can use to

automatically and legally qualify them for additional deductions.

Hobby Loss Rules – 2 CE
(Sun, 3:00 pm – 4:40 pm)
LG Brooks, EA

“Activities not engaged in for profit” is the technical term for what we commonly call a hobby. There are many misconceptions about how these activities are reported. Are the reporting requirements different if the taxpayer creates a partnership or corporation and conducts the activity in the entity? Are the losses disallowed just because the taxpayer enjoys the activity? This session will prepare you to ask the right questions so that you will know when one of these issues is in front of you and what to do when it is there.

Tax Court Mock Trial – 4 CE
(Mon, 8:00 am – 11:40 am)
Francis X. Degen, EA, USTCP
Lonnie L. Gary, EA, USTCP
Theodore A. Sinars, JD
Sherrill L. Trovato, EA, USTCP

Are you curious about the Tax Court, the taxpayer's last stand (well almost)? What happens when an Exam issue is unresolved after Appeals? Do you have rights to practice before the court? Watch Tax Court qualified EAs and an attorney present a mock trial before a sitting U.S. Tax Court judge. This is your chance to learn about the process from Judge Juan Vasquez and your colleagues. You won't want to miss this great class!

Everything You Need to Know About FBAR Clients – 2 CE
(Mon, 1:00 pm – 2:40 pm)
Monica Haven, EA, JD

Although the foreign bank account report (FBAR) has been part of the Bank Secrecy Act since 1970, an increased focus on international tax compliance by the IRS has practitioners scrambling to ensure that their clients are complying with the regulations to avoid penalties of up to 50 percent of unreported account balances and potential

criminal prosecution. We will explore the history of the FBAR, the taxpayer's reporting requirements, and corrective action necessary when a taxpayer has failed to comply with the regulations. We will also discuss best practices in collecting client data and briefly review how the FBAR relates to other FATCA-related filings under Internal Revenue Code Sec. 6038(D).

Putting the Audit Technique Guides to Work for You – 2 CE

(Mon, 3:00 pm – 4:40 pm)

Aaron Blau, EA, CPA

This course will familiarize advanced preparers with the availability and usability of IRS written *Audit Technique Guides* for industry specific exams. Preparers will learn how to use the guides properly for pre-audit clients and prepare the documentation requested from taxpayers in the IRS proscribed formats. Participants will also be shown those areas which are either inconsistent or contradictory to tax law.

Real Estate Professionals: Do They Really Exist? – 2 CE

(Tue, 8:00 am – 9:40 pm)

Alan L. Pinck, EA

This highly misinterpreted area of the tax code can be beneficial for some taxpayers and an audit nightmare for others. In this session we will learn what the code and regulations say and how they are commonly misunderstood by the IRS and the Tax Court, as well as tax professionals. The ability to make a passive activity active can mean a lot of tax savings to your clients if they qualify and a bad audit if they do not. We will cover how to prepare and represent your client in this type of audit. Understanding Reg. 1.469-5T and the ability to make a late election under Rev. Proc. 2011-34 can be the key to a positive outcome.

I Have a Client Who ... Cases Submitted by Attendees – 2 CE

(Tue, 10:00 am – 11:40 am)

Howard S. Levy, Esq.

Do you have a case to work but you're just

not sure what your next move should be? Do you wish you had a mentor to help you work the case? Submit a 100-word case synopsis detailing the issues involved in your client's case. Attorney (and long-time NTPI instructor) Howard Levy will select two cases from those submitted and will offer the lucky winners guidance while the case is active. The cases and their resolutions will then be dissected and discussed in this not-to-be-missed program.

Mock Appeals Conference – 2 CE

(Tue, 1:00 pm – 2:40 pm)

Sherrill L. Trovato, EA, USTCP, and Aaron B. Whitaker, Jr., EA

How can you present a persuasive Appeals conference to highlight your client's case and reach a satisfactory resolution? This class discusses the current Appeals environment before a student is selected to participate in a mock conference with a former appeals officer. Valuable tips and coaching will be offered.

Ethics – 2 CE

(Tue, 3:00 pm – 4:40 pm)

Claudia A. Hill, EA

While conducting various tax engagements, conflicts of interest may develop that may severely affect the outcome of a tax matter. Not only will a conflict of interest adversely affect the case, but it may also adversely affect a practitioner's ability to competently represent or defend a taxpayer's position. This course will address positions and issues that are deemed a conflict of interest. The importance of recognizing a conflict of interest and, more importantly, resolving a conflict of interest are thoroughly addressed in this presentation.

TAX PREPARATION

Foreign Earned Income: Form 2555 – 2 CE

(Sun, 8:00 am – 9:40 am)

David E. DuVal, EA

The IRS continues to focus on the income of Americans who incur foreign income

and on the noncompliance in reporting this income. Learn what is considered to be foreign earned income, the rules for claiming the foreign earned income exclusion and the foreign tax credit, and FBAR and Schedule B reporting requirements.

Ethics – 2 CE

(Sun, 10:00 am – 11:40 am)

David E. DuVal, EA

A tax practitioner's responsibilities are ever increasing. What practices will help ensure that you are in compliance with Circular 230? This course will cover topics such as competence, due diligence, conflict of interest, and more. Best practices in regard to information security and safeguarding clients' personal information will also be covered.

Death & Retirement Issues – 2 CE

(Sun, 1:00 pm – 2:40 pm)

Margaret Dunn, EA

When a decedent leaves money in retirement accounts, the distribution of the funds will depend on the beneficiary designation(s) on the account(s). This session will cover the various designation options and what they mean upon the death of the account holder. This information will be helpful for both post-death tax preparation and for pre-death tax planning.

Death & Taxes: Allocation of Income/Expenses & Final Form 1040 – 2 CE

(Sun, 3:00 pm – 4:40 pm)

Margaret Dunn, EA

When a taxpayer dies, the tax professional must know what to enter on the decedent's final Form 1040, as well as understand if and when Form 1041 is required for the decedent's estate or trust. This session will cover the rules that must be applied and how to properly allocate income and expenses to the final 1040 and any required Form 1041 and/or Form 706.

Death & Taxes: Form 1041 – 4 CE

(Mon, 8:00 am – 11:40 am)

Margaret Dunn, EA

This session will cover the filing

requirements for Form 1041 for decedent estates and irrevocable trusts that “come to life” upon the death of a taxpayer. This will be a practical approach with sample situations and the step-by-step process for completing Form 1041. Key legal terminology used in estate planning documents will be covered as well.

Automobiles: Buying vs. Leasing – 2 CE
(Mon, 1:00 pm – 2:40 pm)
C. Dale Boushley, EA

This buy vs. lease presentation goes deep into comparing cash flow, tax benefits, and issues of both buying and leasing. The instructor will work through a comprehensive example comparing buying and leasing using the standard mileage rate vs. actual expenses in both scenarios. The presentation is primarily directed to employees and self-employed taxpayers situations.

Basis: Partnerships & S Corporations – 2 CE
(Mon, 3:00 pm – 4:40 pm)
Vicki L. Mulak, EA

This session serves as a practical analysis of the critical basis issues affecting participants in partnerships, LLCs filing as partnerships, and S corporations by examination of the similarities and differences

in the management of K-1 flow-through items, basis in debt, ordering rules, and available entity and participant elections.

Employee vs. Independent Contractor – 2 CE
(Tues, 8:00 am – 9:40 am)
Vicki L. Mulak, EA

Proper worker classification determinations are made by applying three categories of evidence representing the “common law factors.” Improper classifications can be fatal to a new business. This session explores optimal determinations, as well as voluntary reclassifications, utilizing the significantly reduced employment tax rates available under IRC Sec. 3509(a).

Mid-Year Tax Update – 2 CE
(Tues, 10:00 am – 11:40 am)
Vicki L. Mulak, EA

Revenue procedures, rulings, and notices do not “take a break” during tax season. Highlighted in this session will be IRS guidance received during the first part of the filing season, expired tax law, as well as a “where we are now” with the tangible property regulations and the health insurance mandates.

Taxes and Divorces: Community Property Included – 2 CE

(Tues, 1:00 pm – 2:40 pm)
C. Dale Boushley, EA

When a divorce happens, it can affect way more than who gets to claim the children. In this two-hour presentation, The instructor will cover many issues from alimony recapture and alimony trust; how property settlement can affect pre-59 ½ 72(t) significantly similar periodical payments, prior-year carry-overs and much more.

What Is my Basis in ...? – 2 CE
(Tues, 3:00 pm – 4:40 pm)
C. Dale Boushley, EA

Basis. The more you learn the more you seem to realize you never knew. This presentation will begin with mutual funds and reinvested dividends and stock splits. It will also cover the multiple bases of property converted from personal to business use and how depreciation affects each.

PRACTICE MANAGEMENT

A “Lunch and Learn” will be held on Monday, August 3, at noon. Join Margaret Dunn, EA, to focus on the crucial question: What’s Your Exit Strategy? Among the topics discussed will be selling your practice, value at time of sale, and maximizing your sale price down the road. In addition to lunch, you’ll receive one credit of NAEA CE (cost: \$45).



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2015 NAEA NATIONAL CONFERENCE

SCHEDULE-AT-A-GLANCE

Sunday, August 2			Monday, August 3			Tuesday, August 4		
All	7-8:00	Breakfast	All	7-8:00	Breakfast	All	7-8:00	Breakfast
1	8-8:50	Overview of Representation	1	8-9:40	Introduction to Criminal Investigation	1	8-9:40	Introduction to Appeals
2	8-10:50	Non-Filers and SFRs	2	8-9:40	Examination Appeals	2	8-9:40	Enforced Collections
3	8-9:40	Correcting Bad Actions	3	8-10:50	Bankruptcy & Advanced Collections	3	8-11:40	Advanced Examinations
G	8-9:40	2015 Representation Update	G	8-11:40	Tax Court Mock Trial	G	8-9:40	Real Estate Professionals; Do They Really Exist?
TP	8-9:40	Foreign Earned Income: Form 2555	TP	8-11:40	Death & Taxes: Form 1041	TP	8-9:40	Employee vs. Independent Contractor
1	8:50-11:40	Introduction to Collections	1	10-11:40	Introduction to Examination	1	10:00-11:40	Non-Filers
2	10:50-11:40	FOIA	2	10-11:40	Trust Fund Recovery Penalties	2	10:00-11:40	Collection Resolutions & Form 433
3	10-11:40	Statute of Limitations	3	10:50-11:40	Advanced Appeals	G	10-11:40	I Have a Client Who... Cases Submitted by Attendees
G	10-11:40	Advanced IRS Summons Authority & Defenses	♦	12-1:00	Lunch & Learn: What's Your Exit Strategy?	TP	10-11:40	Mid-Year Tax Update
TP	10-11:40	Ethics	1	1-2:40	Introduction to Examination cont.	1	1-2:40	Ethics for the Tax Practitioner
1	1-2:40	Communicating with IRS & Notices	2	1-1:50	Audit Reconsideration	2	1-1:50	Collection Resolutions & Form 433 cont.
2	1-4:40	Form 1040 Audits	3	1-2:40	Advanced Appeals cont.	3	1-4:40	Preparing Form 656 & 433-A OIC
3	1-2:40	Advanced Criminal Tax Issues	G	1-2:40	Everything You Need to Know About FBAR Clients	G	1-2:40	Appeals Mock Conference
G	1-2:40	Aggressive Strategies for Clients w/Income & Assets	TP	1-2:40	Automobiles: Buying vs. Leasing	TP	1-2:40	Taxes and Divorces
TP	1-2:40	Death & Retirement Issues	2	1:50-4:40	Collection Appeals	2	1:50-3:50	Ethics
1	3-4:40	Tax Research & Resources	3	3-4:40	Advanced Trust Fund Recovery	1	3-4:40	Transcripts and CSED Extenders
3	3-4:40	Representation Ethics	1	3-3:50	Innocent Spouse	G	3-4:40	Ethics for Tax Practitioner
G	3-4:40	Hobby Loss Rules	G	3-4:40	Putting the Audit Technique Guides to Work for You	TP	3-4:40	What is my Basis in...?
TP	3-4:40	Death & Taxes: Allocation of Income/Expenses, Final Form 1040	TP	3-4:40	Basis: Partnerships & S Corporations	2	3:50-4:40	Representation Wrap-Up
All	5-6:00	Opening Plenary	1	3:50-4:40	Engagement Letters	All	5:30-7:00	NTPI Graduation & NAEA Awards Ceremony
All	6-7:00	Welcome Reception	All	5:15-7:00	NAEA Annual Meeting			
♦	7-9:00	Sharing Pearls of Wisdom: Evening Auction to Benefit NAEA EF	†	7-8:00	NAEA PAC Reception			

KEY	
1	NTPI Level 1
2	NTPI Level 2
3	NTPI Level 3
G	Graduate Level in Representation
TP	Tax Preparation Issues
All	All Participants

Registration Note: You may register for a complete, pre-set track. Only enrolled agents, CPAs and tax attorneys may register for National Tax Practice Institute™ (NTPI®) Levels 1, 2, 3, or the Graduate Level in Representation track. If your interest is to become an NTPI Fellow™, taking the three levels in order is imperative. Registration for Levels 2 and 3 requires the successful completion of the prior level.

***Daily Schedule Note:** Classes will be held daily from 8:00am – 4:40pm. A morning and afternoon break will be provided from 9:40 am – 10:00 am and 2:40 pm – 3:00 pm. In addition, the conference will break for lunch (on your own) from 11:40 am – 1:00 pm daily.

♦ Ticket Required

† NAEA PAC Club Level Contributors Only

TO BE OR *NOT TO BE* SOCIAL

BY KERRY FREEMAN, EA

Social media is everywhere. A great way to connect with those around you, social media activity ranges from jumping on Facebook to tell your niece how proud you are of her band recital, to posting pictures of your new holiday cupcakes on Pinterest. I use social media to market my practice with videos on YouTube, tweets on Twitter, and posts on Facebook.

Using social media for marketing your tax practice is an exciting tool. People across the globe are interacting with brands through social media, which makes having a strong presence on the web key when building a business. If implemented correctly, marketing with social media can bring remarkable success to your business.

What is social media marketing? Social media marketing is a form of internet marketing that implements various social media networks in order to achieve communication and branding goals.

Before you begin creating social media marketing campaigns, consider your business goals. Starting a social media marketing campaign without a strategy in mind is like wandering through a forest without a map—you'll only end up lost.

Create a social media marketing plan and brainstorm your goals: What are you hoping to achieve through social media marketing? Who is your target audience? How does your target audience use social media? What message do you want to send to your audience?

Social media marketing can help with a number of goals, such as:

- Increasing website traffic
- Developing brand awareness
- Creating a brand identity and positive brand association
- Enhancing communication and interaction with key audiences



Only by establishing your goals can you measure your social media return on investment.

Various social media sites require different techniques, so develop a unique strategy tailored for each platform. Here is a brief overview on how to use social media for marketing according to each platform's unique environment.

Facebook

Facebook's casual, friendly environment requires an active social media marketing strategy that begins with creating a Facebook Business Fan Page. You will want to pay careful attention to the appearance of your page, as the visual component is a key aspect of the Facebook experience. Select a profile picture and cover photo that present the best image of your practice. Maintain an active presence on your page by posting industry-related articles, images, and videos.

A commonly used feature on Facebook is the "Like" button—a way to show your approval and support of a post or business. A similar feature is the "Share" button. Hit "share" to borrow and post content from other pages that would be of interest to your followers.

An often over-looked tool is the "Check-In" button. Clicking this button allows Facebook users to let their followers know where they've been. Most of my clients have a Facebook account, so I ask them to "check-in" at my office. As a thanks for helping promote my

practice, I give them \$5 off my fee. By having my clients check-in, I've essentially sent my business card to all my client's followers.

Utilizing the like, share, and check-in tools on Facebook increase your visibility in the Facebook community. It's a quick, and easy way to get your name out there, and lets potential clients know who you are and what you do!

Google+

With the same fun, casual atmosphere as Facebook, Google+ allows you to upload and share media with a community of followers. Users have the option to endorse your post by giving it a "+1," a similar feature as "liking" a post on Facebook. Your Google+ account allows you to create Google+ circles, a tool used to segment your followers into smaller groups. This enables you to share information with a niche group of followers. For example, you might try creating a "super-fan" circle, and share special discounts and exclusive offers with only the individuals in that circle.

Twitter

Twitter is a tool that lets you broadcast short, concise updates to a broad spectrum of individuals. Called "tweets," these 140-character posts are excellent for announcing specials, discounts, and updates your practice is offering. Follow those who tweet about your industry or related fields, and retweet when a customer has something nice to say about you. Insert hashtags to label your tweets so

users can locate tweets about a certain topic. Using Twitter as a social media marketing tool revolves around dialog and communication, so be sure to interact as much as possible.

LinkedIn

LinkedIn is a social media site focused on professional development. By posting a detailed resume of your work experience, LinkedIn allows you to network with other professionals in your field from across the country.

Encourage customers or clients to give your business a “recommendation” on your LinkedIn profile. Recommendations make your business appear more credible and reliable for new customers.

YouTube

YouTube is a popular place to share video content, and can be an incredibly powerful social media marketing tool. Many businesses create content with the goal of having their video seen by a wide audience. Focus on creating useful, instructional how-to videos. Create a short commercial for your practice, explain the EA designation, and discuss your position as a tax expert. Since Google owns YouTube, uploaded videos have the benefit of appearing in the results of a Google video search.

Location-Based Social Media Tools

Platforms such as Yelp, Angie’s List, and FourSquare are great for brick-and-mortar businesses. A sort of modern-day phone book, these sites allow users to search for services by business type or location. Registering on these sites allows clients to rate and review your services and publish them for all to see. Getting rave reviews is a great way to attract new clientele.

General Terms

All this new tech-speak can be confusing! To clarify, I’ve put together a short list of general terms to help make sense of it all.

Facebook

Friend – A member of your Facebook contact list.

Fan – A user who follows and receives updates from a particular Facebook page. For example, you can be a fan of a business, a celebrity, or political figure.

Like – A one-click option allowing a Facebook user to mark her enjoyment or approval of a post.

Tag – A link to a user’s profile. Users can be tagged in photos or status updates.

Wall/Timeline – The space on a profile or fan page where users can share posts, photos, and links.

Share – A way of posting a status, link, or image. Users can share content from other pages or from Internet sources.

Twitter

Tweet – A post. A tweet can be only 140 characters.

Retweet – When a Twitter user posts a tweet from another user.

Follow – Subscribing to the updates of another user.

Following – Users whose twitter feeds you subscribe to.

Follower – A subscriber of another user’s Twitter feed.

Hashtag – A mechanism used to group posts under the same topic. A hashtag is a specific word preceded by the # (pound) symbol. Users can search for content based on hashtags. For example, this definition could be paired with #Definition, #HowTo, or #SocialMediaTerms.

Google+

+1 – Similar to a Facebook like. If a user +1s your content, it also makes it more prominent in relevant Google searches.

Circles – These are categories that you can create to organize your contacts.

Communities – A forum created by brands or individuals to discuss certain topics or services, or to share information in general.

YouTube

Views – The number of times a YouTube video has been opened.

Channel – A user’s customizable homepage for his or her account. Includes account information, subscribers, and shared videos.

LinkedIn

Connections – A list of contacts in your personal network.

First-degree contact – You are directly connected to this person. This may be a coworker or a friend.

Endorsements – A list of skills fellow users have suggested you possess.

Groups – A place for users to connect with others in related fields or with similar interests.

Recommendations – A written reference by a LinkedIn member, usually recognizing a colleague, student, or manager.

Last Thoughts

There is a cost to social media marketing. For most, the cost is time. Some business owners may still believe that using traditional print ads, flyers, networking, and referrals is the best way to reach new clients, but this is not always the case. Those who have taken the time to update their business’ profile on social media websites have reaped great rewards. Modern technology opens your door to everyone with an internet connection. By using social media, the path to your door is now a freeway.

The use of social media for marketing does more than help businesses reach more customers. It provides a valuable venue for better understanding and learning from your target audiences. Hopefully, this guide has helped you better understand how using social media for marketing can improve your business. **EA**

About the Author

Kerry Freeman, EA, came from a background of sales and marketing before his transition into the family enrolled agent practice in 1998. Kerry is currently the president of the Phoenix West Chapter of EAs, serves on the board of directors for the Arizona Society, and is the PR chair for NAEA. His out-of-the-box thinking sparks him to embrace the question, “What is an EA?” and he treats each day as an opportunity to grow the EA brand and awareness.

MEETING HIGHLIGHTS

BY JULIA SHENKAR

Another May meeting has come and gone. This year, NAEA's annual event in Washington, DC, was packed full of reports and presentations, guest speakers, and even a few surprises.

Kicking off the week, NAEA's seventh annual Fly-In Day sent 105 enrolled agents to Capitol Hill to speak with their members of Congress. Coming from all corners of the country, Fly-In participants began their time in DC with a training session on May 12. After learning how to effectively meet with congressional representatives, members spent Wednesday, May 13, on the Hill. After a full day of impactful conversation, a celebratory reception was held at Van Scoyoc Associates featuring Representative Xavier Becerra as a guest speaker. For more on this year's Fly-In, see pages 4–7.

Next on the agenda was the Affiliate Presidents Exchange (APEX) on Thursday. Forty-nine leaders came together to share experiences from their home affiliates. In addition, NAEA staff gave presentations designed to enlighten attendees and enrich the affiliate experience. Meeting members for the first time, Director of Membership Katrina Holland teamed up with Membership Committee Co-Chair Michelle McBride, EA, to present their plans for membership in the coming year. In the absence of Sr. Director of Communications and Marketing Gigi Thompson Jarvis, CAE, Twila Midwood, EA, gave the group a PR update. Linda Ward, EA, Twila Midwood, EA, Michelle McBride, EA, and Rich Rhodes, EA, led a roundtable discussion focusing on how NAEA can provide value to affiliate leaders. A new member of the NAEA staff, IT Project Manager Dan Voit, worked with IT Task Force and Affiliate Council Chair Jeff Gentner, EA, to relay information pertaining to the IT Focus Group and the NAEA

website. After a long and informative day, a brief reception was held.

Friday's events opened just like any other APEX meeting, but all were surprised when breakfast was interrupted by a farewell/birthday celebration for outgoing Executive Vice President Mike Nelson, CAE. Secretary/Treasurer Laurie Ziegler, EA, ran a heartfelt PowerPoint presentation, hitting on highlights from Mike's tenure at NAEA. As it was also Mike's birthday, he was presented with a tower of cupcakes (complete with trick candles) and a Grammy-worthy round of "Happy Birthday." Mike will truly be missed by the NAEA community, and we wish him well as he moves to his next position.

The meeting continued with a roundtable discussion led by Jean Nelsen, EA, focusing on the Educating America initiative and ways for the affiliates to get more involved. The rest of the day focused on technology and e-marketing as Jeff Gentner, EA, and Bill Nemeth, EA, filled everyone in on how to utilize online tools to spread messages to their affiliate audiences. NAEA Senior Program Coordinator Maya English reviewed the process of pulling membership reports from the NAEA website, as well as how to update a "Find an EA" profile. Sr. Director, Government Relations Robert Kerr gave a quick GR update, and Melissa Longmuir, EA, led a discussion on the SEE Boot Camp and VITA program.

Friday evening, a reception set the mood for the evening's agenda. In a rooftop room overlooking the Potomac River and Washington, DC, members mingled, and enjoyed drinks and hors d'oeuvres before entering the installation dinner for the 2015–2016 NAEA Board of Directors.

IRS RPO Director Carol Campbell spoke to the group as the installation dinner's keynote speaker. She expressed her gratitude for the service enrolled agents

provide, highlighted ongoing efforts to bring return preparers into the fold, and discussed the most recent EA and PTIN renewal cycles. Additionally, both Alan Pinck, EA, and Geri Bowman, EA, CPA, USTCP, were awarded the President's Award by outgoing President Lonnie Gary, EA, USTCP, for their unyielding allegiance to NAEA demonstrated through their steadfast commitment to our education program. It is this ardent effort that ensures NAEA remains a leader in the industry by providing top-tier professional development opportunities.

After being installed by her longtime friends Sharon-Kay Flynn, EA, (NAEA president 1999–2001) and Nancy Goedecke, EA, (NAEA secretary/treasurer 1999–2001), President Terry Durkin, EA, accepted the gavel from Immediate Past President Gary. She spoke to the dinner attendees and announced her humorous plan to raise EA awareness "one golf course at a time."

The week concluded with the NAEA Board of Directors meeting on Saturday. A Search Committee was appointed to begin the process of finding NAEA's new executive vice president. Members of the committee are Betsey Buckingham, EA, Lori Carpenter, EA, Mike Fiorrito, EA, Jeff Gentner, EA, Nancy Lyman, EA, Jean Nelsen, EA, and Alan Pinck, EA. Jean Nelsen, EA, was named chair of the committee.

After a productive and active meeting, NAEA confidently enters its 2015–2016 governance year. With a strong board, passionate affiliate leaders, and dedicated members, it is, as President Durkin says, "a grEAt day to be an EA." **EA**

About the Author:

Julia Shenkar is the managing editor of the *EA Journal*, as well as the program manager for NAEA's Educating America initiative. She holds a bachelor's degree in French and non-fiction writing from Knox College.

MAY MEETING HIGHLIGHTS

All photos courtesy of Patrick Ryan



1. Nancy Lyman, EA, Ann Kummer, EA, CPA, and Twila Midwood, EA, relax at Friday's reception following a busy day.

2. Lisa Eyrolles, EA, Bill Nemeth, EA, and Joni Cappuccio, EA, enjoy the view at Friday's reception.

3. Happy Birthday to you! Mike Nelsen, CAE, blows out candles at his surprise party Friday morning.

4. Two past presidents: Betsey Buckingham, EA, and Lonnie Gary, EA, USTCP.

5. Carol Campbell, director of RPO, was the keynote speaker at Friday's installation dinner.

6. One of the two recipients of the 2016 President's Award, Alan Pinck, EA, poses with Immediate Past President Lonnie Gary, EA, USTCP.

7. Nancy Goedecke, EA, Sharon Kay Flynn, EA, and then-President Lonnie Gary, EA, USTCP, prepare to install NAEA's new president.

8. Reciting their oath of office, the NAEA directors are sworn in.

9. Sharon Kay Flynn, EA, swears in President Terry Durkin, EA.

10. The 2015-2016 NAEA Board of Directors.

11. Outgoing EVP Mike Nelson, CAE, shares a moment with NAEA staff.



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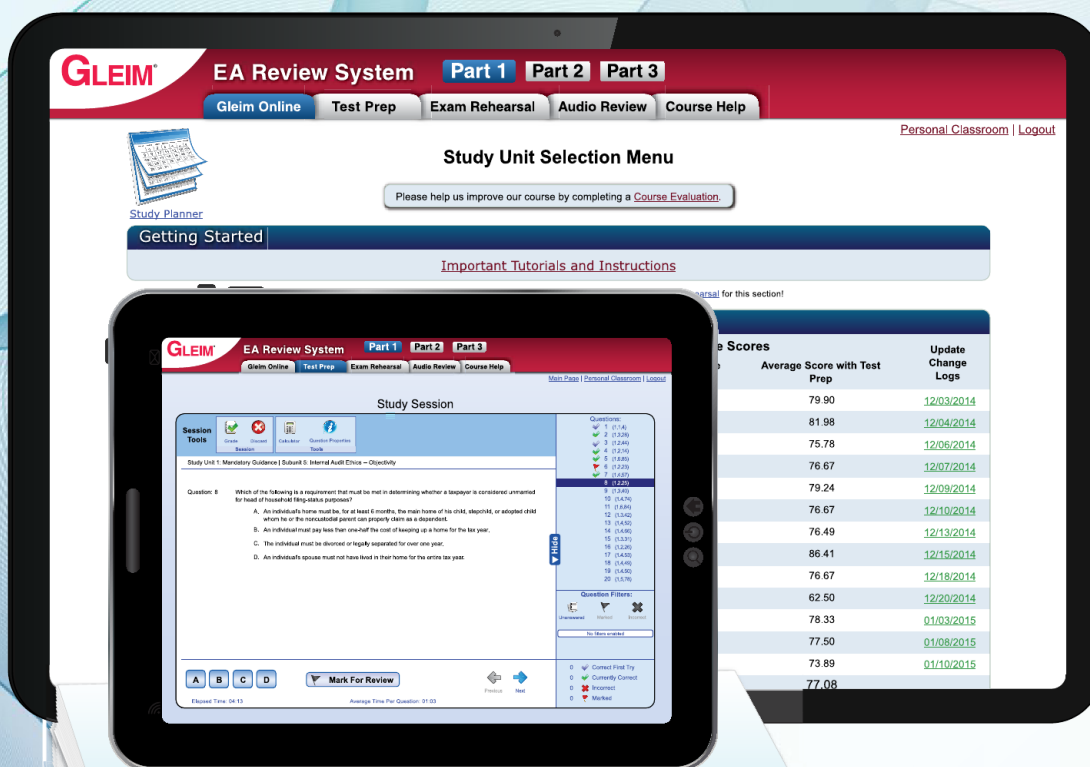


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