

**IN THE MIDST OF REORGANIZATION . . . WHAT'S ACTUALLY
HAPPENING WITH IRS ENFORCEMENT TODAY?**

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Bob Kane's practice is devoted exclusively to resolving disputes with the Internal Revenue Service. He formerly represented the IRS in tax litigation as a trial attorney for the U.S. Department of Justice. Mr. Kane teaches a class on dealing with the IRS at Golden Gate University. He is a Past-President of the Section on Taxation of the Washington State Bar Association and has a Master of Laws (in Taxation) from New York University.

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I. IRS ENFORCEMENT DOWN DRASTICALLY NATIONALLY

- IRS publicly acknowledges that audits down 50% from level of three years ago
- Compare: 1.9 million individual returns audited in 1996; 1.1 million in 1999
- Compare: 60,000 corporate audits in 1996; 40,000 corporate audits in 1999
- Seizures down from over 10,000 per year in 1996 to 161 in 1999
- Lien filings in 1999 down 69% from 1996 levels
- Levies in 1999 down 86% from 1996 levels
- Criminal prosecutions of tax cases down significantly

II. REASONS FOR DECLINE IN ENFORCEMENT

- Anti-IRS sentiment in Congress (1998 Tax Act contains numerous checks on IRS enforcement)
- Additional workload associated with implementing 98 Act (including training)
- Budgetary constraints (IRS complains it has not gotten near what it needs)
- Shrinking workforce (compliance personnel down more than 20% in last five years; no new revenue agents or revenue officers hired since 1995)
- Customer service initiatives (particularly during filing season)
- Section 1203 paralysis (“The Ten Deadly Sins” that make it easier for an IRS employee to be fired for misconduct)
- Low morale of IRS employees (“I can’t collect anymore”)
- Increased workload (record number of tax returns being filed)

- Reorganization (Where do I go to get a pencil?)

III. LOCAL IRS ENFORCEMENT TODAY

A. AUDITS

- When was last time a revenue agent started audit of one of your clients?
- No new hiring in years; attrition has decimated ranks of Seattle office
- Number of tax returns has increased
- Priorities in SB/SE: abusive trusts, non-filers, market segment work, innocent spouse backlog; but limited personnel to do general audits
- LMSB--IRS has devoted entire division to dealing with businesses with assets of greater than \$5 million; priority because of dollars involved
- Matching program alive and well

B. COLLECTION

- Fairly quiet last two years; increased activity past few months?
- Due Process Appeals and Collection Appeals Program slow system down
- Offers in Compromise a priority; specialists reduce revenue officer ranks

C. CRIMINAL

- Focus in recent years has been on drug cases; not Title 26 tax cases
- Number of tax cases being recommended for prosecution is way down

D. APPEALS

- Traditional workload down because fewer cases in pipeline from Exam
- Seattle office down from over 40 Appeals Officers to fewer than 10
- Shift in focus to more Collection work

E. COUNSEL'S OFFICE

- Tax Court caseload has shrunk from over 80,000 to approximately 16,000 cases

IV. RESULTS OF REDUCED ENFORCEMENT EFFORT

- More taxpayers will see opportunity to cheat
- More taxpayers will want to push the envelope
- Pressure from clients on preparers and advisors to be more aggressive
- Amounts will go uncollected because of delays inherent in system

V. ENFORCEMENT PREDICTIONS

- Commissioner Rossotti likes to mention that 98% of revenue comes in without IRS enforcement action
- The reorganization focuses more attention on front-end dealings with taxpayers (e.g., taxpayer education, pre-filing agreements)
- appears ready to give IRS more money, in part to shore up sagging enforcement efforts
- Budget surplus and anti-IRS sentiment may delay pendulum swinging back for longer than usual time
- Prediction for next few years: Enforcement pendulum likely will swing back but not as far as in days past