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## LIST OF SUBSTANTIVE CHANGES AND ADDITIONS

### PPC’s Guide to Dealing with the IRS

#### Twenty-sixth Edition (June 2018)

The following are some of the features of this year’s update of *PPC’s Guide to Dealing with the IRS*:

- **IRS List of Dirty Dozen Tax Scams.** The *Guide* has added a discussion of the IRS’ latest list of the Dirty Dozen Tax Scams. This is an annual list of a variety of common scams that taxpayers may encounter anytime.
- **Practitioner e-Services Account Security.** The IRS has announced that it will begin requiring practitioners to use multi-factor verification to access their e-services account. The *Guide* discusses this new requirement.
- **Centralized Partnership Audit Rules.** The *Guide* has expanded its coverage of the new Centralized Partnership Audit Rules.
- **Collection Case Procedures.** There have been significant changes regarding a revenue officer’s first contact on a collections case. The *Guide* has revised the discussion of these procedures to reflect these changes.
- **Offers in Compromise.** The IRS will begin processing offers in compromise for select businesses that are experiencing significant tax payment issues. The *Guide* has added a discussion of this new process, including guidance on how business assets are valued for this purpose.
- **Offshore Voluntary Disclosure Program (OVDP).** The OVDP is a voluntary disclosure program specifically designed for taxpayers with exposure to potential criminal liability and/or substantial civil penalties due to a willful failure to report foreign financial assets and pay all tax due in respect of those assets. The program has been in place since 2014, but will now be ending later in 2018. The *Guide* discusses the closure of this program and how existing cases will be processed.
- **Engagement Letters.** The *Guide* has expanded its various sample engagement letters to include or revise clauses for client responsibilities, dispute resolutions, and privileged communications.

In addition to these featured items, the 2018 edition of your *Guide* includes the following update items:

<u>Chapter</u>	<u>Substantive Changes and Additions</u>	<u>Reference</u>
CHAPTER 1 Overview of IRS Practice	1. Revised the discussion about the IRS Commissioner and the IRS organizational chart.	Section 101 and Appendix 1A
	2. Added a discussion about the most recent annual evaluation by the Treasury Inspector General for Tax Administration.	Section 101
	3. The IRS Criminal Investigation role has been expanded to use data analytics.	Section 101

<u>Chapter</u>	<u>Substantive Changes and Additions</u>	<u>Reference</u>
	4. Added a discussion of the Taxpayer Advocacy Panel.	Section 101
	5. Updated the National Tax Advocate annual report summary for current changes.	Sections 101 and 102
	6. The latest IRS strategic plan for 2018–2022 has been released.	Section 102
	7. The IRS Future State discussion has been updated.	Section 102
	8. The new Dirty Dozen list of tax scams has been added.	Section 102
CHAPTER 2 Tax Overpayments and Interest	1. Added a discussion of the <i>Schuster</i> case regarding the 10-year statute of limitations applying to erroneous credits as opposed to the two-year statute for erroneous refunds.	Section 201
	2. Added Law Change Alerts throughout regarding the 2017 Tax Cuts and Jobs Act (TCJA) repeal of NOL carrybacks.	Section 204
CHAPTER 3 Statutes of Limitations	1. Revised discussion of statute of limitations of pass-through entities.	Section 304
	2. Expanded the limitations chart for certain tax returns.	Appendix 3I
CHAPTER 5 Audits of Individual Returns	1. Added a discussion that two-factor authentication will now be needed for practitioners to access their e-services account.	Section 501
	2. Expanded the discussion of the use of data mining for new initiatives in the IRS's new strategic plan for 2018–2022.	Section 511
CHAPTER 6 Audits of Business Returns	1. Added a discussion of additional Large Business and International audit campaigns announced by the IRS.	Section 601
	2. Added a mention of the release of proposed regulations implementing the new centralized audit rules for partnerships.	Section 607
CHAPTER 7 Audits of Other Returns	1. Revised the section on Worker Classification Initiatives to include information on the Automated Underreporter and Automated Correspondence Exam programs.	Section 701
	2. Revised the section on Employment Tax Examination Procedures to include interviewing third-party contacts as a guideline for identifying employment tax issues.	Section 701
	3. Revised the discussion on Correction on Audit to reflect that sanctions under the Audit CAP are no longer determined by a negotiated percentage of the maximum amount in accordance with Rev. Proc. 2016-51.	Section 704
	4. Updated the discussion of the penalty for failure to file information returns to include tables reflecting the penalty amounts for 2016, 2017, and 2018 (adjusted for inflation) according to the filing date for businesses that satisfy and those that do not satisfy the gross receipts test.	Section 705 and Appendix 7F
	5. Revised the discussion on Initiating the Examination Process to reflect that the 45-day time period for initiating the exam starts from the examiner's receipt of the case.	Section 706
	6. Revised the discussion on No-Change audits to include an observation from a recent tax court ruling in <i>Sower</i> to reflect that in the case of a spouse who elected portability, a second examination of the predeceased is allowed as part of the examination of the later deceased spouse even though the first exam resulted in no-change.	Section 706

<u>Chapter</u>	<u>Substantive Changes and Additions</u>	<u>Reference</u>
	7. Revised the section on Examination Objectives and Guidelines to reflect that information on audit techniques and guidelines in an EO examination can be found in the Audit Technique Guides for Exempt Organizations.	Section 707
	8. Revised the discussion on Revocation or Modification of Exempt Status to include updated guidance provided in the annually updated Rev. Proc. 2018-5.	Section 707
CHAPTER 8 Appeals and Alternative Dispute Resolution	1. Updated discussion for IRS decision to return to face-to-face meetings for appeals conferences.	Section 807
CHAPTER 10 Collection Procedures, Installment Agreements, and Third-party Collection Issues	1. Updated the discussion of revenue officer’s first contact on a collections case for IRS significant changes.	Section 1004
CHAPTER 11 Liens, Levies, Seizures, and Sale of Taxpayer’s Property	1. Expanded the discussion of property subject to IRS levy for jointly-owned property, citing the <i>Cahill</i> case.	Section 1102
	2. Mentioned that all three major credit bureaus will no longer report tax liens on their credit reports.	Section 1103
	3. Added a discussion of new procedures to discharge estate tax liens.	Section 1105
	4. Discussed the new provision in the TCJA for lengthening the time to protest a wrongful levy.	Section 1109
CHAPTER 12 Innocent Spouse Relief	1. Added a discussion of the <i>Minton</i> case involving abuse by the non-requesting spouse where the court did not allow innocent spouse relief on the portion of liability related to a 401(k) withdrawal by the requesting spouse but allowed relief for a portion of liability relating to the non-requesting spouse’s business; streamlined relief not allowed because the requesting spouse would not suffer economic hardship if held liable.	Section 1204
	2. Revised the discussion to include Practice Tips concerning Private Debt Collection Agency and Revocation of Passport provisions under the FAST Act related to innocent spouse relief.	Section 1206
	3. Added a discussion of the <i>Matuszak</i> case where the tax court affirmed a dismissal of an innocent spouse relief petition filed one day after the 90-day deadline.	Section 1207
	4. Included information for accessing the IRS’s online innocent spouse self-help tool.	Section 1208
CHAPTER 13 Offers in Compromise	1. Expanded the discussion of submitting and processing an OIC for new IRS templates when the taxpayer proposes payment terms that do not fit with the Form 656 template.	Section 1301
	2. Added a discussion of OICs for business taxpayers and how business assets are valued.	Section 1303

<u>Chapter</u>	<u>Substantive Changes and Additions</u>	<u>Reference</u>
CHAPTER 14 The Trust Fund Recovery Penalty	1. Expanded the discussion of the “willfulness” criteria for the trust fund recovery penalty.	Section 1402
	2. Expanded the discussion of the “reasonable cause” defense for the trust fund recovery penalty.	Section 1402
	3. Added a discussion of a new pilot program by the IRS that will use predictive analytics to better detect delinquent payroll taxes.	Section 1404
CHAPTER 15 Bankruptcy	1. Expanded the list of exceptions to the automatic stay.	Section 1501
	2. Expanded the discussion throughout of the dischargability of trust fund taxes.	Sections 1502 and 1503
CHAPTER 16 Representing Nonfilers	1. Revised the discussion for the eventual end to the Offshore Voluntary Disclosure Program (OVDP).	Section 1601
	2. Revised the discussion of grounds for penalty abatement for nonfilers.	Section 1601
	3. Expanded the discussion of the IRS procedures for securing delinquent returns.	Section 1602
CHAPTER 17 Taxpayer and Preparer Penalties	1. Updated for Rev. Proc. 2018-11 that provides the most recent procedures regarding adequate disclosure of an item or position on the tax return.	Section 1701
	2. Added a discussion of the <i>Larson</i> case where merely giving tax information to the tax preparer did not constitute good faith reliance.	Section 1701
	3. Added a discussion of the <i>Bulakites</i> case involving reliance on Turbo Tax software as a defense.	Section 1701
	4. Revised the discussion to clarify that in the case of determining whether a taxpayer has filed a return or valid extension for all returns currently due for first-time abatement (FTA), the taxpayer is considered current if the due date of the missing return or extension to file is 45 days or less than the current date.	Section 1703
	5. Added a discussion of the <i>Bedrosian</i> case where the court ruled the FBAR penalty be refunded to the taxpayer because the IRS did not meet its burden of proof regarding willfulness.	Section 1703
	6. Added a discussion of the <i>Garrity</i> case where the court ruled abatement of FBAR penalty was denied to the taxpayer because the IRS met its burden of proof regarding willfulness.	Section 1703
CHAPTER 18 Criminal Penalties	1. Updated the coverage of the OVDP to mention that the program is ending in 2018.	Section 1801
CHAPTER 19 Rules of Practice	1. Updated the discussion of the <i>Steele</i> case to include final judgement and permanent injunction that PTIN fees are unlawful and pending appeals, refund of PTIN fees is required.	Section 1902
	2. Updated the PTIN discussion to include the new address to send written requests for PTIN holders who do not have an online account to make changes to their account.	Section 1902
	3. Added a discussion of new final Reg. 300.4(b) that increases the enrolled agent examination fee.	Section 1903
	4. Added a discussion that the TCJA extended the due diligence requirements to now include the determination of eligibility of filing as head of household for tax returns filed after December 31, 2017.	Section 1904

<u>Chapter</u>	<u>Substantive Changes and Additions</u>	<u>Reference</u>
	5. Updated the discussion with an observation for CPAs to consider both Circular 230 and the AICPA Statement on Standards of Tax Practice No. 7 requirements when providing tax advice.	Section 1904
	6. Updated the discussion to clarify that any individual with a PTIN is considered to hold themselves out in the business of preparing tax returns and is thus considered a tax return preparer for PTIN purposes.	Section 1905
	7. Updated the discussion clarify that for “self-prepared” returns, the preparer is the person the taxpayer alleges to have prepared the return.	Section 1905
	8. Added to the discussion the OPR’s recent changes in its procedures because of the <i>Waterman</i> case for when an investigation is closed with no action taken.	Section 1905
CHAPTER 20 Access to Information	1. Updated the discussion to include the POA requirement to access taxpayer information using an intermediate service provider.	Section 2001
	2. Updated the discussion to include additional information the IRS is requesting from practitioners to verify their identity and authorization.	Section 2001
	3. Added guidance about receiving information for forms not listed on the POA.	Section 2001
	4. Added information to the discussion about the IRS Secure Access Authentication process and its application to certain online tools.	Section 2002
	5. Revised the discussion to include the taxpayer advocate’s view and recommendations to the IRS concerning FAQs.	Section 2003
	6. Updated the sample letter to request a private letter ruling with new requirements according to Rev. Proc. 2018-1.	Appendix 20E
CHAPTER 21 Managing an IRS Engagement	1. Updated the discussion to include information from IRS transcripts that can be used to gather information to determine whether to accept a client. Also created a new checklist of information that can be obtained from IRS transcripts.	Section 2101 and Appendix 21P
	2. Updated the discussion to include information on how to obtain a Centralized Authorization File (CAF) listing under the Freedom of Information Act (FOIA). Also created a new FOIA request letter for this CAF listing.	Section 2102 and Appendix 21Q
	3. Added a discussion of how to report a suspicious text claiming to be from the IRS.	Section 2103
	4. Updated engagement letters to add a client responsibilities and dispute resolution clause, and revised the privileged communications clause.	Appendixes 21A–21F
CHAPTER 22 Client Profiles	1. Added a discussion of options available for individuals and sole proprietors who qualify for low-income certification that elect to send in a payment with an OIC.	Section 2203
	2. Updated the section to include that tax returns filed within 60 days of offer submission must be attached to the offer application.	Section 2203
	3. Added to the discussion that taxpayers must be current with all required estimated tax payments and federal tax deposits.	Section 2203
	4. Updated the appendix with the current version of Form 656.	Appendix 22C
	5. Updated the appendix with the current version of Form 433-A(OIC).	Appendix 22D

