

Office of Chief Counsel  
Internal Revenue Service  
**Memorandum**

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subject: POSTS-102002-06 Alternative Contact Initiatives

This Chief Counsel Advice responds to your request for assistance. This advice may not be used or cited as precedent.

ISSUES

Whether asking a taxpayer to respond to a questionnaire and meet informally with a representative of the Internal Revenue Service (IRS) in a particular program constitutes an examination for second examination purposes.

CONCLUSIONS

The questionnaire and the informal meeting do not constitute the opening of an examination.

FACTS

The Service has developed a software system to better identify federal returns that have a high probability of error. The program produced a list of returns that showed a high likelihood of error. To test the program, examiners reviewed the returns identified by the software and, based on the examiners' reviews, the IRS decided to audit a specific number of the total returns that exhibited the highest probability of error. The specific number was chosen because it will statistically validate or invalidate the study. With respect to the remaining returns, the Service decided to implement an optional contact

approach. This is to be accomplished by sending a letter and questionnaire to each of the remaining taxpayers and asking them to meet informally with representatives of the IRS.

The questionnaire asks a number of very general questions and some questions that are tied to the taxpayer's return. A cover letter asking the taxpayer to meet informally with the IRS also states that this is not an examination and that the IRS does not want to see the taxpayer's books and records. The letter states that the program is purely voluntary. The taxpayer does not have to answer the questions or meet with the examiner if it does not want to.

### LAW AND ANALYSIS

Section 7605(b) provides that a taxpayer may not be subjected to unnecessary examinations or investigations and that the IRS may inspect a taxpayer's books and records only once unless the IRS notifies the taxpayer that an additional inspection is necessary. The issue here is whether sending the letter and appended questions, and requesting an informal meeting with the taxpayer to discuss the taxpayer's responses constitute the opening of an examination under 7605(b). Though the questionnaire and the informal meeting may be a precursor to an examination in some instances, an examination does not begin with the review of the questionnaire and the meeting. The letter to the taxpayer proposed to be sent states clearly that the IRS is not opening an examination and that the IRS does not want to see any books and records. It explains that the taxpayer does not have to answer the questions or meet with the IRS representative. Participation is entirely voluntary. The letter also states that the IRS will follow the proper protocol for opening an examination if it later decides that an examination is necessary.

### CASE DEVELOPMENT, HAZARDS AND OTHER CONSIDERATIONS



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Please call Robert A. Miller or Kevin Connelly (202) 622-3630 if you have any further questions.