Streamlined Compliance Procedures for Non-Disclosed Foreign Bank Accounts

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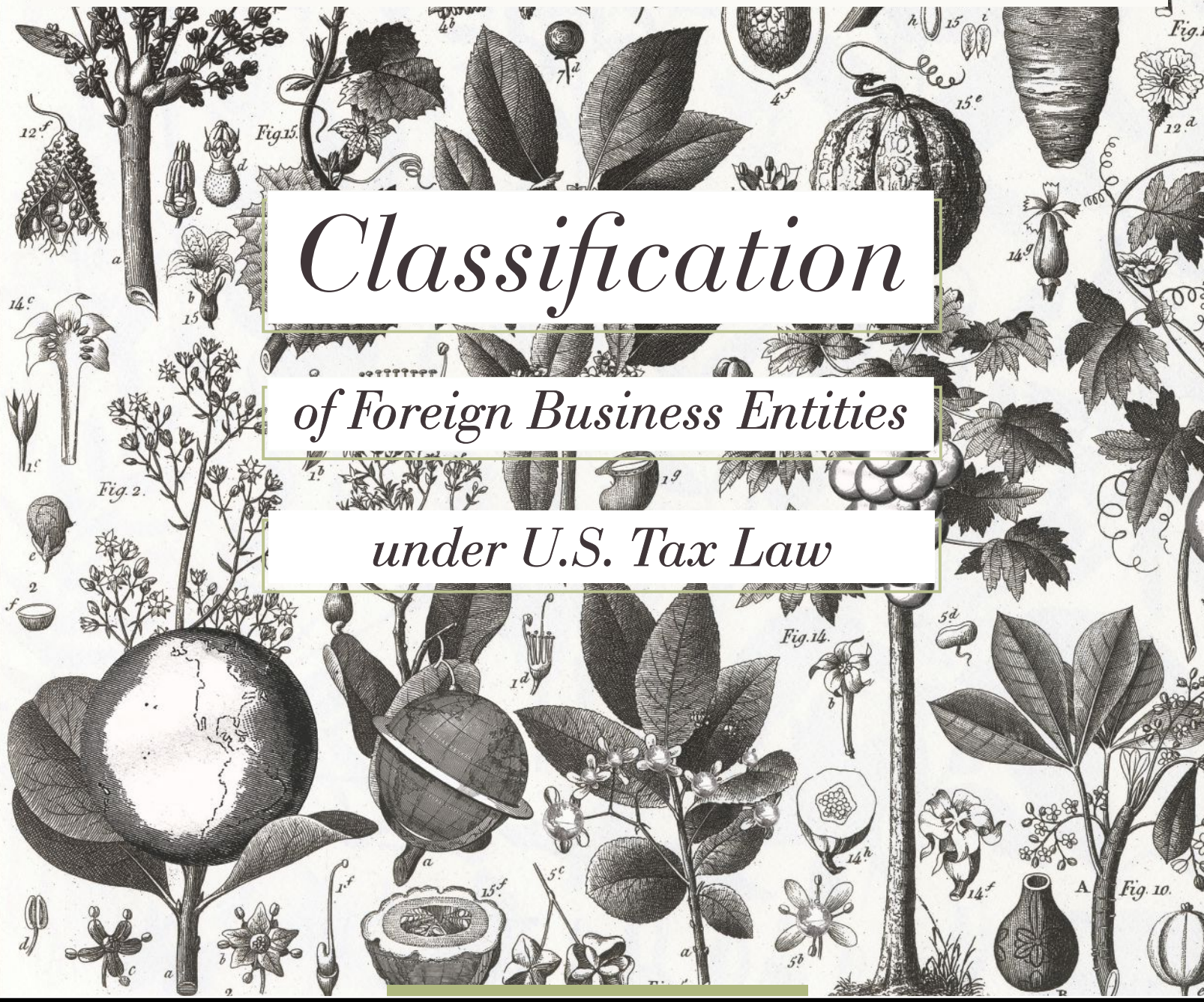

Classification of Foreign Business Entities under U.S. Tax Law

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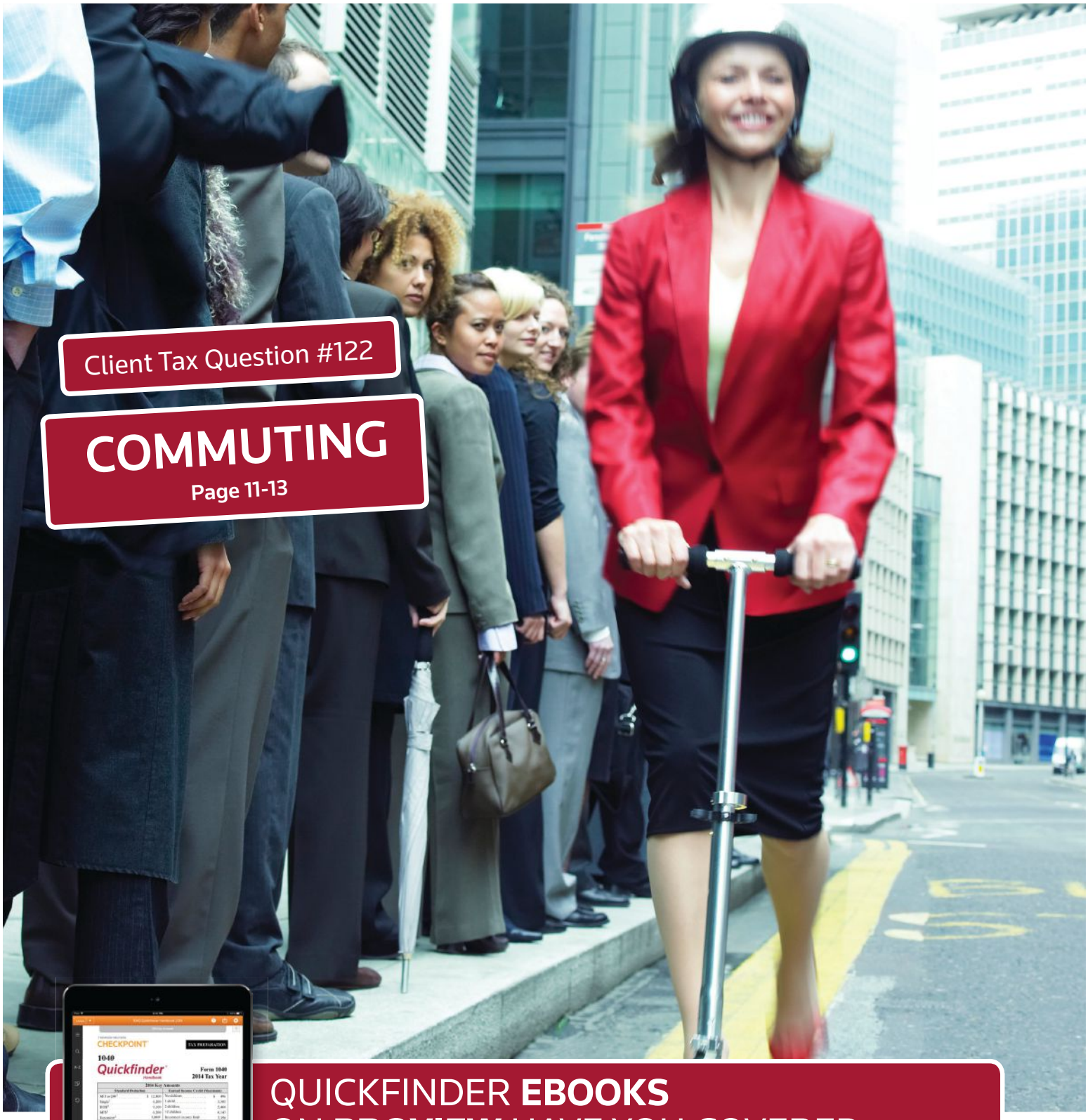

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It's Still a Great Day to be an EA!

Terry Durkin, EA

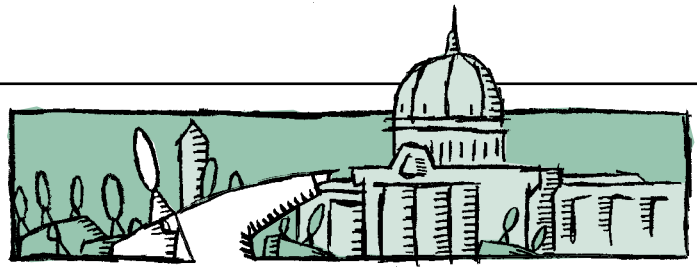
Thank you for the honor and privilege of serving as your forty-second NAEA President. It is hard to believe my term is coming to an end. Where did the time go? As I take a moment to look back on the past year (even while surrounded by tax returns!), I have an overwhelming sense of pride in our profession and gratitude to my fellow members who continue to work tirelessly as consummate tax experts in supporting each another, serving their clients, and finding creative ways to educate the public about enrolled agents.

All things work together for good, and we did a lot of good together this year. I would like to express my heartfelt thank you to all the committees, task forces, individual members, and NAEA staff for making this year grEAt. Here are just a few highlights:

- We hired our new EVP, Cedric Calhoun, CAE, FASAE, who will help bring NAEA to the next level.
- We succeeded in protecting the rights of EAs in every state with the passage of the EA Credential provision as part of the PATH Act. Kudos to the GR department, GR committee, and all the Fly-In Day participants for focusing on this for the last several years!
- We continued to invest in the Educating America program. The word is getting out to the public (particularly U.S. colleges) on who we are and why a career as an enrolled agent is worth pursuing.
- We succeeded in having "EA Day/Week" declared in fifteen states* (CT, IL, IN, KS, KY, MA, MI, MO, MS, NC, NM, OR, PA, TX, and WI). The goal of EA Day/Week is to educate the public about the qualifications of EAs for tax consultation, preparation, and representation.
- We launched a new member benefit: a redesigned "Find an EA" directory. This benefit offers our members and the public a more user-friendly and modern way to find enrolled agents, America's Tax Experts.
- Thirty-one Schuldiner/Smollan Leadership Academy (SSLA) students graduated. SSLA alumni are doing great things at their chapters, affiliates, and at NAEA.
- We utilized technology and offered webinars on various topics to prepare our members and other tax professionals for the tax season.
- We voted to approve two Bylaw changes: splitting the Secretary/Treasurer position into two separate positions and refining the process for changing bylaws in the future.

There is always more work to do, and I know the new 2016-2017 Board members are up for the challenge. I also know you will join me in supporting Richard Reedman, EA, USTCP, as he takes over as President in May. Let's keep the momentum going. And let's keep making each day a grEAt day to be an EA! EA

*As of this article's deadline



CAPITOL CORNER

Our Lobbyists, Who Art in DC …

By Robert Kerr

2015 was an interesting year in many respects: the Patriots won Super Bowl XLIX and we all learned the numbers of pounds per square inch in a fully inflated football; Queen Elizabeth II became England's longest reigning monarch; and the broad market bounced all over the place only to land where it began and to consign all of us consulting our 401(k) balances to yet another year at our desks.

At the same time, 2015 was an interesting year for tax professionals: Paul Ryan's ascension to Speaker of the House brings someone steeped in tax policy to the leader's chair and his successor Kevin Brady made appropriate gestures towards tax reform; Congress, in a move unexpected at the beginning of the year made permanent a number of temporary tax provisions—and included the EA credential protection provision in the mix; and we're seeing bipartisan interest in both chambers (and in some statehouses) in return preparer oversight.

Given the year's events (tax related, not otherwise!), I thought I'd bring in NAEA's legislative consultants for an interview. Both Jeff Trinca, who is our federal legislative counsel, and Dean Heyl, who is our state legislative counsel, have extensive experience in tax policy, tax administration, and tax legislation and they have repeatedly proven themselves to be the guys you want in the foxhole with you.

Robert Kerr: ***Let's kick off with something easy. You guys have been on the advocacy team for a long time. Remind us when you started and what that looked like.***

Jeff Trinca: Well, I've worked with NAEA for years dating back to the early 1980s during my time at Senate Finance Committee doing IRS oversight and later as Chief of Staff to the National Commission to Restructure the IRS. After the Commission came out with its recommendations in 1997 and I returned to my firm, Van Scoyoc Associates, NAEA's Executive Vice President, Jan Bray, approached me about working with the association on a more formal basis. In those first few years, I worked on the enactment of the IRS Restructuring legislation on behalf of NAEA and also helped organize the Affordable Accounting Coalition. After Susan Zuber became EVP, she asked me to work closely with the Board to develop recommendations on regulating unenrolled tax preparers.

Dean Heyl: I first started representing EAs in 1999 when I was named the Executive Director of the Coalition for Affordable Accounting (CAA), which was comprised of several accounting and tax groups including NAEA. The CAA—and Greg Steinbis' (past NAEA president) participation was instrumental—was formed to protect the practice rights of non-CPAs. Our advocacy ensured proactive legislation in dozens of states and prevented many detrimental bills (to EAs) from being passed. Additionally, we worked very closely with the AICPA and NASBA to make significant changes in the Uniform Accountancy Act. In 2003, the Coalition wound down and NAEA asked me to be its outside state legislative counsel. In this role, which has evolved over time, I provide legislative strategy and advice on working with elected and administrative officials. While working with NAEA, I've also served as the head of government relations for two DC-based trade associations.

RK: ***How has NAEA's advocacy changed in the past fifteen or so years?***

JT: In the early years, NAEA was almost completely IRS-centric and we were mostly reactive when it came to Congress. Congressional committees often asked NAEA to

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.

comment on the filing season and legislative proposals. Only a few, key staffers and members of Congress actually knew what enrolled agents were. NAEA's Board decided around 2000 that the organization needed to be more strategic about our legislation and branding of the EA credential. One of my first recommendations was for NAEA to start a PAC. There was a lot of resistance on the part of some of the long-time members but a few key NAEA members—the late Bill Payne comes to mind immediately—really stepped up and have made it the success that it is today. The PAC ensures that legislative advocacy team has regular face time with top tax policymakers. We spend a lot more time up on the Hill pushing specific legislation that protects the EA credential and the tax administration system as a whole.

DH: Over the years, we've seen a shift from having to protect EA practice rights, since they have now been codified in many state statutes to having more states recognize the EA title. Many states had language stating "The title 'enrolled agent' or the designation 'E.A.' may only be used by individuals so designated by the United States Internal Revenue Service." That said, however, the EA credential protection language in the big extenders bill shows a significant base leveling and protects our rear flank.

In recent years, I'm seeing more state societies step up and actively intervene. New York is a good example. Judy Strauss served on the state's tax preparer task force and her work paved the way for an ongoing dialogue with the DTF commissioner and state legislature. When the state considered return preparer registration, these connections made all the difference. Because of NYSSEA's involvement, EAs were recognized as equals to other legacy Circular 230 practitioners and their preparation rights were not impeded in any way. New Jersey is interested in a statutory change regarding affidavits of merit before certain suits may be admitted to court and Bob and I have been consulting with state leaders on that issue, though to be clear that is only one of several we've recently addressed.

RK: ***Dean, how has the state legislative/regulatory environment changed in recent years?***

DH: From my perspective, the legislative and regulatory environment has become much more "EA friendly," if you will. I don't see nearly the same level of effort to restrict EA's practice rights or the use the "EA" title. NAEA continues in its advocacy efforts to elevate EA practice rights to those of that of other Circular 230 practitioners. This job will likely become much easier due to the passage of the federal EA Credential provision. States often follow the lead of federal government and most of them recognize federal preemption without the necessity of litigation.

RK: ***Jeff, how has the legislative process changed here in DC?***

JT: There has been a complete breakdown in what we call "regular order," which most of us learned on Saturday mornings in the old "I'm just a bill on Capitol Hill" commercial. That process—hearings, subcommittee mark up, full committee mark up, floor action, conference committee—is no more. Now, more law is created in backrooms years or months before it appears suddenly from behind the doors of congressional leadership. There is very little opportunity for public comment and participation. Both parties are guilty of this break down in process.

RK: ***And how are EAs received on the Hill now versus fifteen years ago?***

JT: I can remember a junior committee staffer once asked me "enrolled agents take a test? What is it, basically a math test?" After they scraped me off the ceiling, I explained the wide coverage of the exam and challenged the CPA-trained staffer to try the exam himself. Now, we rarely find someone, even the younger staff, who have no idea of what EAs are about. I can say with some confidence that almost all senior Members of Congress and their staff know what EAs are and have a strong respect for their input on legislation and IRS policy in general.

The difference is three-fold: first a $170,000 per election cycle (and growing) PAC has ensured that we are treated as equals with the other practitioner groups; second, the fly-in allows us to put a local face on our policy priorities; and finally, a sustained retail lobbying presence by the GRC team in all the tax writing offices have made the difference.

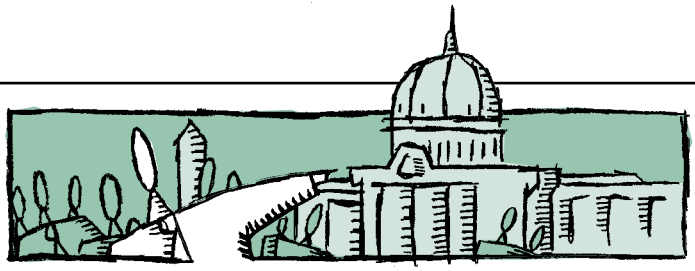
RK: ***A final question to each of you. Jeff, when will tax reform come to pass?***

JT: A lot of the actual work is happening now. Various discrete areas of the tax code are being debated publically—for instance, deferral and inversions. A number of proposals are on the table for capitalization and depreciation rules. Making the major extenders permanent really set up tax reform for the near term because now the baseline tax code includes provisions that don't have to be "paid for." For instance, if you lower the rates for all corporations, then modifications to the R&D tax credit, which was just made permanent, can be scored as revenue raisers rather than losers. I think it is really important for NAEA to put out some proposals for individual and small business taxpayers during the next two years in anticipation of a new administration—whether it's Democratic or Republican—taking up tax reform as a presidential priority.

RK: ***Jeff, that's a good point, and we're already starting to work with the government relations committee to build a formal document that will outline enrolled agent objectives for fundamental tax reform.***

Pivoting to Dean, who gets the last word, as you look into your crystal ball, what issues of interest to EAs do you see coming to the forefront in 2016 and how are you working with NAEA on those issues?

DH: I think population increase as well as technology will continue to drive changes on the state legislative and regulatory front. For



example, almost every state has some e-filing threshold for state tax returns and I expect these "trigger points" to drop even lower over the years. Even though EAs have been able to protect their practice rights and in many cases gained a greater ability to use the "EA" title, things will only improve due to the earlier mentioned federal legislative victory on the EA credential. With that said, there is always room for the improvement in protecting EA practice rights. Further, we need to stay on the lookout for cities seeking to raise revenue through the licensing of tax preparers. I expect that we will continue to scan the horizon for proposals that affect EAs—particularly state efforts to regulate return preparation—and work together with members and state societies to respond vigorously.

As an aside, I want to say how much I've enjoyed representing NAEA's members, starting with the first one I met, Greg Steinbis. I've been privileged to meet many other great tax pros, like the late Bill Payne. If there is one thing I could impress upon the readers of this article, it is this: EAs are their own best advocates. Paid staff and counsel may know the issues impacting EAs and be well placed to provide strategy and language, but only EAs can talk with firsthand knowledge of what it means to be part of a business and, especially on a state level, connect with legislators as constituents.

RK: ***Thank you Dean and Jeff for your service, for your sage advice, and on a personal level, for your friendship.***

As we closed the interview, the conversation reminded me of several things. The first is what a game-changer the extenders legislation is. The March/April 2006 Capitol Corner included a discussion of what would happen in that election year and focused on five extenders, three of which were just made permanent (R&D credit, deductibility of state and local taxes, and Sec. 179 small expensing) and two of which are already permanent (AMT exemption amounts and reduced rates for capital gains and dividends). We've been planning around extenders for a long time!

The second is that NAEA PAC is closing its tenth year (on March 31), having grown revenue—and exceeded its own fundraising goal—every year. As we go to press, we are roughly ten percent shy of this year's goal—so if you would like to help us, or if you would like to see your name in lights, go to **www.naea.org/pac**.

Finally, one observation from my ten-plus years here. I'm particularly blessed to have worked with a group of EA advocates—my GRC chairs Gary Anspach, EA, Lonnie Gary, EA, USTCP, Frank Degen, EA, USTCP, Roger Harris, EA, and Bill Payne, EA, immediately leap to mind, but so do any number of others who have identified issues and helped me understand them.

While our recent EA credential victory is sweet indeed, we can—and should—be proud of all we have accomplished together. For instance, IRS rarely (if ever) abbreviates EAs out of existence (e.g., "CPAs, attorneys, and other practitioners...") and look forward toward advancing NAEA's advocacy goals (return preparer oversight, to name but one) with the assistance of our member advocates and with strategic guidance from Jeff and Dean. **EA**

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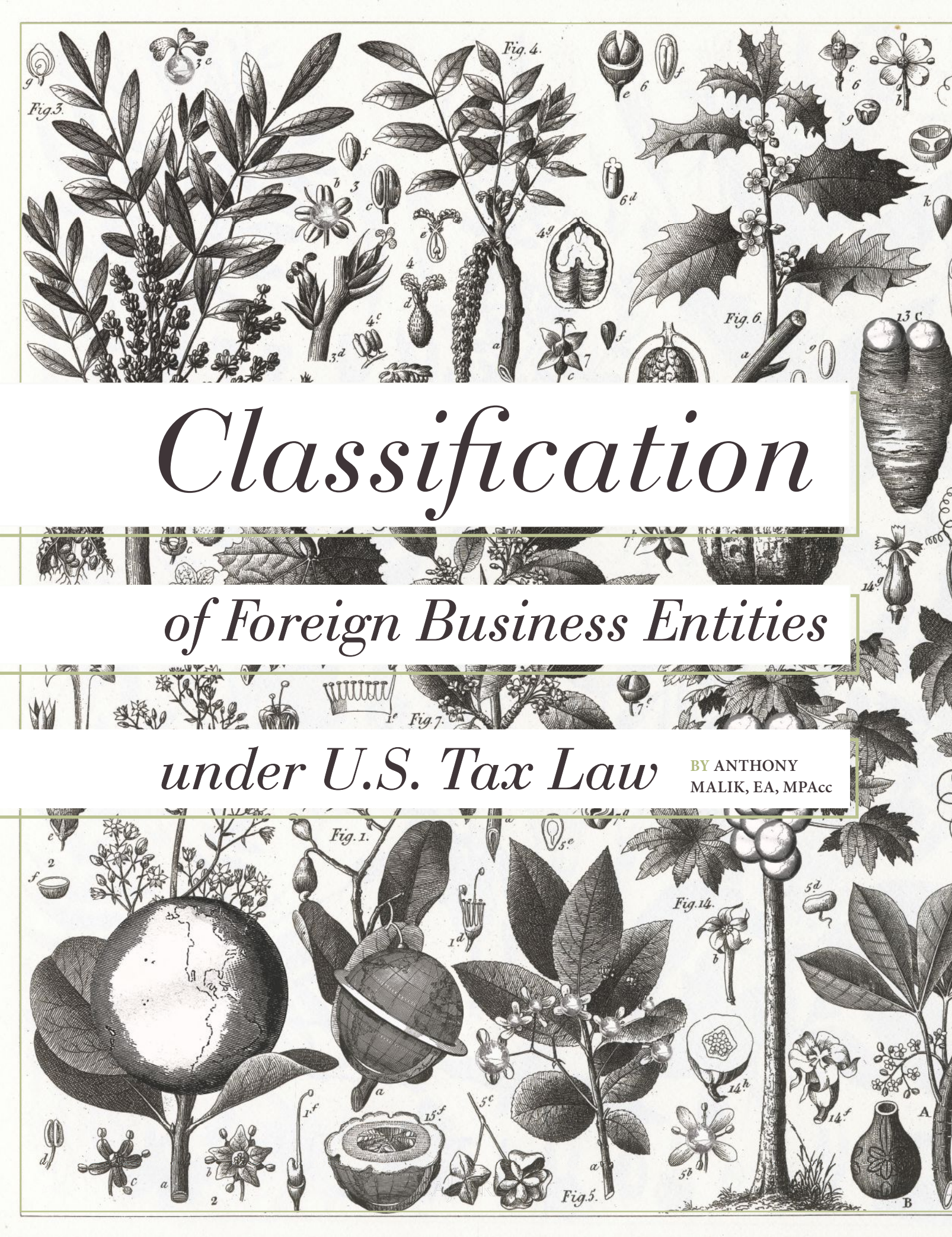

Classification

of Foreign Business Entities

under U.S. Tax Law

BY ANTHONY MALIK, EA, MPAcc

An elementary question in business international taxation involves ascertaining the classification of foreign entities for U.S. tax purposes. This question emerges whenever a foreign business pursues U.S. economic activity or when a U.S. person establishes a business outside the U.S. While foreign entities enjoy definite classification under the laws of their respective countries of organization, their classification under U.S. tax law may be ambiguous. Since the U.S. taxation of any business entity—foreign or domestic—depends on its classification, this ambiguity places tax practitioners at an impasse. In the ensuing sections, this article will present an overview of the U.S. tax rules for foreign entity classification.

Historically, the classification of many foreign entities often proved problematic. This was owed to the purely factual classification system under prior law whereby foreign entities were classified based on their predominant character. In practice, applying the factual classification regime was difficult since the idiosyncratic features of foreign entities did not line up conveniently with those of U.S. chartered entities. Indeed, the large variety of entity types in the world, designed to operate in legal and economic environments vastly different from those of U.S. environments, often led to disputes over their classification for U.S. tax purposes.

Luckily for tax practitioners, in 1997 the factual classification regime was largely replaced by an elective classification regime.[1] Under this new regime, foreign eligible entities (discussed later) are able to definitively elect their federal tax classification by checking a box on Form 8832, Entity Classification Election, thereby eliminating much uncertainty from the

Classification

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under U.S. Tax Law

international tax infrastructure. It should be mentioned that in many cases, in addition to classification changes, check-the-box (CTB) elections for foreign eligible entities (FEEs) also trigger restructuring transactions under U.S. tax law.[2] However, this article will limit itself only to the question of entity classification and will not delve into the transactional impact of cross-border CTB elections.

It should be mentioned that while it is always a relief to find clear guidance in the law, the per se corporation list is generally limited to publicly traded type entities. Thus the list itself provides little value unless the tax practitioner is employed by either the tax department of a multinational company or a giant professional services firm. As the discussion ahead will reveal, most tax practitioners will have to exercise some professional judgment in ascertaining a given foreign entity's classification.

...while it is always a relief to find clear guidance in the law, the per se corporation list is generally limited to publicly traded type entities.

Per Se Corporations – A Question of Axioms

Before delving into foreign entity classification, it will be helpful to briefly consider domestic entity classification, a subject that most tax practitioners are versed in. Remember that sole proprietorships and corporations generally cannot change their tax treatment by filing Form 8832.[3] In this respect, the law clearly defines corporations in a domestic context.[4]

Now bridging over to foreign entities, something that will undoubtedly be new for many tax practitioners is that the law also specifically classifies certain foreign entities as corporations for U.S. tax purposes.[5] This list exposes tax practitioners to colorful terms such as Sociedad Anonima, Public Limited Company, Aktiengesellschaft, and Kabushiki Kaisha among others. Extending the elective classification limitations of domestic corporations to foreign corporations, it becomes clear that these specifically classified foreign corporations (i.e., per se corporations) cannot opt for elective classification.

Default Classification – A Question of Facts

As is often the case with regime changes, the current classification regime retained certain elements of the old factual classification regime. Specifically, foreign businesses that are not per se corporations automatically default to corporate, partnership or trust status based on an attenuated factual classification regime.[6] Under the current default rules, a foreign business is classified as a:

- Partnership if it has two or more members and at least one member does not have limited liability[7]
- Corporation if all members have limited liability[8]
- Disregarded entity if it has a single member-owner without limited liability[9]

Notice that a foreign entity's absence from the per se corporation list does not necessarily bar its corporate status. The reality is that many foreign entities, even ostensibly non-corporate ones, will default to corporate status à la the aforementioned legal standard. Along these lines, it is critical to understand that the default U.S. rules operate independently of the classification of the foreign entities in their countries of organization. In other words, cross-border entity classification mismatches are not uncommon. A foreign corporation may default to partnership or disregarded entity status[10] while a foreign partnership may default to corporate status[11] under U.S. standards. Since entity hybridization opens the window to a world of international tax planning, it acquires increased significance in the elective classification context discussed next.

Elective Classification – A Question of Choice

The CTB regime is designed to complement the underlying default entity classification regime. Since it is possible for the default rules to apply dubiously to some foreign entities, a CTB election minimizes the possibility of disputes with respect to foreign entity classification. Clearly, a boon of the elective classification system is that it introduces stability to the regulatory framework beyond what the default classification system alone can deliver. While there is no unqualified election for all foreign entities, FEEs that establish their characters as separate entities (i.e., entities not disregarded as separate from their owners) qualify to choose their own classification.[12]

FEEs are business entities that are not otherwise classified as corporations under the Tax Code.[13] The law stipulates that a FEE with at least two members can elect to be classified as either a corporation or a partnership while

an entity with a single owner can elect to be classified as either a corporation or a disregarded entity.[14] At this juncture, it behooves us to pay heed to a couple of things. Firstly, note the radical flexibility extended to FEEs. Relying on this legal provision, a FEE can elect corporate status even if its members have unlimited liability. A given FEE can also elect partnership status even if all its members have limited liability. Secondly, note that while we do not ordinarily think of FEEs in the context of default classification, those entities are de facto FEEs, i.e., eligible to elect their own classification. Thus a default foreign partnership can elect corporate status while a default foreign corporation can elect partnership or disregarded entity status.

The point is that the CTB elections offer many foreign businesses the freedom to choose their tax outcomes. This plays a monumental role, both in terms of international tax planning and compliance. While not the subject of this piece, it is worthwhile to reiterate that much innovative international tax planning is driven by strategic cross-border CTB elections as the differing jurisdictional classifications of cross-border businesses create opportunities for tax arbitrage.

It is also imperative for tax advisors to be mindful of the appurtenant procedural complexities when navigating foreign businesses through the CTB elective classification regime. An incorrectly prepared, or untimely filed, Form 8832 can result in a rejection of the desired entity classification election by the IRS. Moreover, the tax timing for various deemed transactions resulting from CTB elections must also be deliberated upon before filing Form 8832. Unless procedural due diligence is exercised, the multinational business may unwittingly end up with adverse U.S. tax consequences.

Business Foundations – A Question of Trust

Foreign legal constructs such as foundations and establishments are generally treated as foreign trusts for U.S. tax purposes.[15] An entity properly classified as a trust is not a business entity for tax purposes. However, such foreign trusts, when organized to operate a business, are treated as business entities rather than as trusts.[16] "These trusts, which are often known as business or commercial trusts, generally are created by the beneficiaries simply as a device to carry on a profit-making business which normally would have been carried on through business organizations that are classified as corporations or partnerships under the Internal Revenue Code... The fact that any organization is technically cast in the trust form… will not change the real character of the organization if the organization is more properly classified as a business entity."[17]

The characterization of foreign business trusts as foreign business entities is critical for purposes of our discussion since it is this characterization that affords the trusts elective classification. This is because the entity classification regulations articulate that only "business entities" can elect their classification.[18] Keeping with this, while under the default rules foreign business trusts with a single beneficiary are treated as disregarded entities and those with two or more beneficiaries are treated as partnerships, they are extended the flexibility to file an election to be treated as foreign corporations for U.S. tax purposes.

Conclusion

Ascertaining the classification of foreign business entities under U.S. tax law is typically the first step in business international tax advisory. While foreign businesses enjoy definite classification in their respective countries of organization, their classification for U.S. tax purposes is not necessarily self-evident. Obvious enough, the entire gamut of tax planning and compliance services rely on a given foreign entity's classification. As such, any tax practitioner intending to serve a cross-border business must, at a very minimum, develop an understanding of the entity classification rules as applicable to foreign businesses. **EA**

About the Author

Anthony (Tony) Malik, EA, MPAcc, *is the Principal Consultant and owner of Point Square Consulting in Atlanta, Georgia. He specializes in international taxation (individuals and businesses). Tony practices a wide range of multijurisdictional tax issues spanning across compliance, planning and litigation. Tony can be reached at tony@pointsquaretax.com.*

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

ENDNOTES

[1] Regulations promulgated under IRC Sec. 7701.
[2] CTB elections for newly created entities may not necessarily implicate taxable transactions under the Tax Code. However, depending on the facts, CTB elections for existing entities trigger a variety of reorganization transactions such as business unit liquidations, intercompany asset transfers, subsidiary drop-downs etc. that may yield immediate tax consequences to the multinational company. This is an extremely complex area of tax practice and requires a high level of expertise.
[3] Treas. Reg. Sec. 301.7701-3(a).
[4] Treas. Reg. Sec. 301.7701-2(b)(1)-(7).
[5] Treas. Reg. Sec. 301.7701-2(b)(8).
[6] The prior factual classification regime prescribed a multifactor assessment checklist based on an old Supreme Court Case (*Morrissey, T.A. v. Commissioner* (1935, S. Ct.)).
[7] Treas. Reg. Sec. 301.7701-3(b)(2)(i).
[8] Id.
[9] Id.
[10] Such entities are referred to as "hybrid entities" or simply "hybrids" in practice.
[11] Such entities are referred to as "reverse hybrid entities" or simply "reverse hybrids" in practice.
[12] Treas. Reg. Sec. 301.7701-1(a)(1).
[13] Treas. Reg. Sec. 301.7701-3(a).
[14] Id.
[15] Treas. Reg. Sec. 301.7701-2(a).
[16] Treas. Reg. Sec. 301.7701-4(b).
[17] Id.
[18] Treas. Reg. Sec. 301.7701-3(a).

STREAMLINED COMPLIANCE PROCEDURES FOR NON-DISCLOSED

FOREIGN BANK ACCOUNTS

BY MANASA NADIG, EA

With the global business environment changing, the world does not seem as vast. Advances in technology have increased awareness of different parts of the world and have made communication cheaper and more efficient. The U.S. citizen is now more mobile than ever before. Additionally, immigrants who may have thought the U.S. was an ultimate destination have begun to move back to their home countries because of equally attractive incomes and lifestyles there.

For a long time, the government had disclosure requirements in place and encouraged taxpayers to disclose income from and balances in foreign financial accounts. This was not stringently enforced and many taxpayers failed to follow the rules (willfully or negligently). Naturally, tax professionals not aware of this requirement did not advise their clients about compliance.

The U.S. government passed the Foreign Account Tax Compliance Act (FATCA) in March 2010. FATCA targets non-compliance by U.S. taxpayers with foreign accounts. It requires reporting by U.S. taxpayers on certain foreign financial assets and also reporting by Foreign Financial Institutions (FFIs) of financial assets held by U.S. taxpayers or foreign entities in which U.S. taxpayers hold a substantial ownership interest. FATCA states that its objective is the reporting of foreign financial assets. Withholding is the cost of not reporting.

This article will trace how the streamlined, offshore procedures came into place and will focus on the streamlined domestic offshore procedures.

Reporting Requirements Under FATCA

FATCA requires certain U.S. taxpayers holding foreign financial assets with an aggregate value of more than the reporting threshold (at least $50,000) to report information about those assets on Form 8938.[1] This must be attached to the taxpayer's annual income tax return. The reporting threshold is higher for certain individuals, including married taxpayers filing a joint annual income tax return and certain taxpayers living in a foreign country (see below).

There are some exceptions to the requirement to file Form 8938. For example, if you do not have to file a U.S. income tax return for the year, then you do not have to file Form 8938 regardless of the value of your specified foreign financial assets for that year.[2] Also, if you report interests in foreign entities and certain foreign gifts on other forms, you may just list the submitted forms on Form 8938 without repeating the details.[3]

Other forms on which a taxpayer may have to report interests in foreign entities and certain foreign gifts are Forms 5471, Information Return of U.S. Persons With Respect To Certain Foreign Corporations; Form 3520, Annual Return To Report Transactions With Foreign Trusts and Receipt of Certain Foreign Gifts; Form 3520-A, Annual Information Return of Foreign Trust With a U.S. Owner; Form 8621, Information Return by a Shareholder of a Passive Foreign Investment Company or Qualified Electing Fund; and Form 8865, Return of U.S. Persons With Respect to Certain Foreign Partnerships.

Taxpayers who meet the Form 8938 reporting thresholds have to also report the same accounts for the same applicable years on the Financial Crimes Enforcement Network (FinCEN) Form 114, Report of Foreign Bank and Financial Accounts (FBAR) (formerly TD F 90-22.1), in addition to Form 8938. These forms are required under the Bank Secrecy

Act (BSA) regulations issued by FinCEN. Under the Streamlined Filing Compliance Procedures, the taxpayer has to submit information for the previous six years to come into compliance with the BSA regulations.

Penalties on Non-Disclosure

Non-compliance with FBAR reporting, Form 8938 reporting, and most of the other reporting forms mentioned above carry extremely stiff penalties. For non-compliance with filing Form 8938, the failure to file penalty is $10,000. There is an additional penalty up to $50,000 for continued failure to file after IRS notification.[4] There may also be an accuracy-related penalty of 20%-40% imposed on under-payments under IRC Sec. 6662. These very high penalties led the IRS to offer the Offshore Voluntary Disclosure Program so that the defaulting taxpayers could come into compliance with previous years of non-filing and have their penalties reduced.

Offshore Voluntary Disclosure Program (OVDP)

The OVDP was first introduced in 2009 and then again in 2011. However, these programs were not open-ended. The IRS began an open-ended program in 2012 to give taxpayers wanting to come into compliance another opportunity to become current. Terms were further modified and introduced by the IRS on July 1, 2014, the current OVDP program is referred as the "2014 OVDP".

The 2014 OVDP has a higher penalty rate than the previous programs, but clearly offers benefits to taxpayers to declare their foreign accounts rather than bear the risk of detection by the IRS and possible criminal prosecution. On acceptance of the taxpayer's OVDP, the delinquent taxpayer will execute a closing agreement via Form 906, Closing Agreement On Final Determination Covering Specific Matters. The presence of a closing agreement is one big difference between the OVDP and the Streamlined Filing Procedures.

The Internal Revenue Service further modified terms on the OVDP in July 2014 via the IR-2014-73. Among other changes announced, the most significant was the increase in the off-shore penalty percentage from 27.5% to 50% if "*it became public that a financial institution where the taxpayer holds an account or another party facilitating the taxpayer's offshore arrangement is under investigation by the IRS or Department of Justice.*"

Streamlined Filing Compliance Procedures

The streamlined filing compliance procedures were introduced in 2012 to encourage taxpayers with undisclosed foreign bank accounts to come into compliance without the risk of high penalties or criminal prosecution, and were revised in June 2014.

These filing procedures are available to taxpayers who can certify that their failure to report foreign financial assets and pay all tax due on those assets did not result from willful conduct.

In 2014, the filing procedures were revised to include U.S. taxpayers residing in the United States. The $1,500 tax threshold and risk assessment process present in the 2012 procedures were eliminated.

Once the returns are submitted under the Streamlined Offshore Domestic Procedures, the OVDP is off the table.

Eligibility Requirements:

1. The 2014 Streamlined Offshore Compliance Procedures are only designed for individual taxpayers and the estates of individual taxpayers.

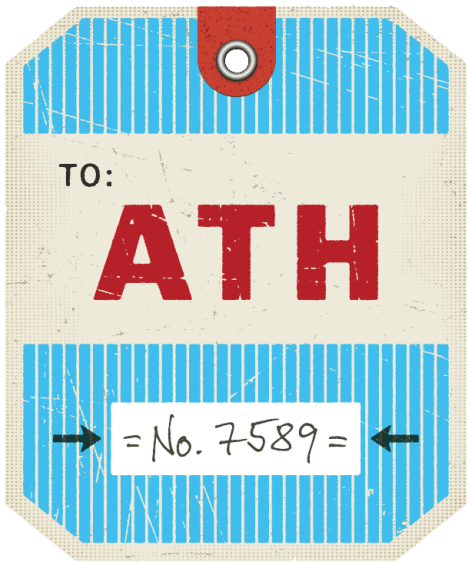
STREAMLINED COMPLIANCE PROCEDURES FOR NON-DISCLOSED

FOREIGN BANK ACCOUNTS

2. The taxpayers must have a valid Taxpayer Identification Number to participate in the Streamlined Offshore Compliance Procedure. If the taxpayer is ineligible for a Social Security Number, they can file an application for an ITIN along with the forms under this procedure.
3. They are available to both U.S. individual taxpayers residing outside the United States and within the United States.
4. The taxpayers must certify that their conduct in non-disclosure was non-willful in accordance with specific instructions given by the Internal Revenue Service.
5. If the IRS has initiated a civil examination of the taxpayer's returns for any taxable year, they will not be eligible to use the streamlined procedures.
6. Any previous penalties due with respect to foreign financial assets either using "quiet disclosure" or under the OVDP will not be abated even though a taxpayer can still use the Streamlined Compliance Procedure.[5]

The Actual Process for Filing the Streamlined Compliance Offshore Procedures for U.S. Citizens in the Country:

1. Prepare Form 1040X, Amended U.S. Individual Income Tax Return, for each of the most recent three years for which the U.S. tax return due date or properly extended due date has passed. Attach any required information returns (Forms 3520, 3520-A, 5471, 5472, 8938, 926, and 8621) not attached originally. One cannot file delinquent income tax returns using these procedures.
2. The critical criteria to ensure returns are processes through these special procedures is to write in red the words, "Streamlined Domestic Offshore" at the top of the first page of each amended tax return.
3. Complete and sign a statement on the Form 14654, Certification by U.S. Person Residing in the U.S. with the required certifications. The original Form 14654 should be submitted and also a copy attached to each tax return being submitted through these procedures. You should not attach copies of the statement to FBARs. This is the most important form in these procedures. Without this or an incomplete one of these, the returns sent will not be considered under favorable terms.
4. Be sure to send in all tax due as calculated on the tax returns and all applicable interest and penalties.
5. The documents and payments must be sent in paper form (electronic submissions will not be accepted) to:
   Internal Revenue Service
   3651 South I-H 35Stop 6063 AUSC
   Attn: Streamlined Domestic Offshore
   Austin, TX 78741



6. File delinquent FBARs for each of the most recent six previous years for which the FBAR due date has passed including a statement explaining that the FBARs are being filed as part of the Streamlined Filing Compliance Procedures. The delinquent FBARs have to be filed electronically at the BSA Website. This must be accompanied with an explanation that the FBARs are being filed under "Streamlined Filing Compliance Procedures." If you are unable to file electronically, you may contact FinCEN at 1-800-949-2732 or 1-703-905-3975 (if calling from outside the United States) to determine possible alternatives to electronic filing.[6]

Internal Revenue Service Penalty & Response on Submission

A taxpayer who is eligible to use these streamlined domestic offshore procedures will be subject to only a 5% penalty and no accuracy-related penalties, information return penalties, or FBAR penalties. The 5% penalty is substantially lower than the 27.5% penalty offered under the OVDP. This 5% penalty is computed on "all reportable but unreported assets" in the third paragraph of the description of the scope of the Streamlined Domestic Offshore Procedures. Therefore the financial assets which form the penalty base are the same as in the OVDP.

The taxpayers using the Streamlined Domestic Offshore Procedures unlike under the OVDP will not have the receipt of their returns acknowledged by the IRS. This process will also not culminate in a closing agreement with them. The checks will be cashed by the IRS and no formal confirmation of acceptance will be provided.

For U.S. Taxpayers residing outside the United States

The Streamlined Foreign Offshore Procedures are available to U.S. Citizens or lawful permanent residents who meet the applicable non-residency requirement as defined in the procedures. Reference is made to the definition of "abode" under IRC section 911(d)(3) & Treasury Regulation Sec. 1.911-2(b) and those meeting the substantial presence test of IRC section 7701(b)(3) will not be subject to failure-to-file and failure-to-pay penalties, accuracy-related penalties, information return penalties, or FBAR penalties.

Non-Willful Conduct

To choose the streamlined procedure for a taxpayer, the taxpayer has to certify that his or her failure to report foreign financial assets and pay all tax due for the three previous years did not result from willful conduct on

YOU MAY CONTACT FINCEN AT 1-800-949-2732 OR 1-703-905-3975

their part. Making the distinction between willful vs non-willful conduct is not only very important, it is very difficult- like skating on thin ice at best. The IRS states in IR-2014-73, "Non-willful conduct is conduct that is due to negligence, inadvertence, or mistake or conduct that is the result of a good faith misunderstanding of the requirements of the law."

Negligence, includes "any failure to make a reasonable attempt to comply with the provisions of the Code" (IRC Sec. 6662(c)) or "to exercise ordinary and reasonable care in the preparation of a tax return" (Reg. Sec. 1.6662-3(b) (1)). Further, "negligence is a lack of due care in failing to do what a reasonable and ordinarily prudent person would have done under the particular circumstances." (Kelly, Paul J., (1970) TC Memo 1970-250). The court also stated that a person may be guilty of negligence even though he is not guilty of bad faith.

To determine "non-willful conduct", each delinquent taxpayer's case has to be carefully examined for their eligibility to file under the Streamlined Filing Procedures and a conscientious decision is to be made taking into account the taxpayer's facts and circumstances.

Some Illustrations of Potentially Non-willful Conduct:

1. Taxpayer A had bank accounts in a foreign country X before he migrated to the U.S. permanently in 2005. He had been preparing his own tax returns through an over-the-counter tax software which did not give him any indication about the need to disclose his foreign accounts. He heard about FATCA disclosure requirements only at the end of 2012 and decided to enter the Offshore Voluntary Disclosure Program. However, he could have also filed his delinquent foreign financial account disclosures through the Streamlined Domestic Offshore Procedures if he could state that the failure to file the foreign bank account disclosures was due to non-willful conduct.
2. Taxpayer B, a naturalized U.S. citizen, received an inheritance on her mother's death in 2004. The mother was not a U.S. citizen and lived in a foreign country. The inheritance was $152,000. She reported this to her tax professional and was advised that she need not take any action on it. Starting 2004, she added more money into the same bank account for four years to fund her daughter's education there. Once her daughter's education was complete, she left the money in that country as the exchange rate worked in her favor. Every year at tax time, she updated the tax professional about these accounts and no action was taken by them. So much so that even the box on Schedule B was not marked. Her circumstances may be construed as being non-willful conduct and the Taxpayer would qualify to file her delinquent returns under the Streamlined Domestic Offshore Procedures. The delinquent Form 3520 was also filed through this procedure.
3. Taxpayers and siblings, F and G, are naturalized U.S. citizens. They came to the U.S. as students and have settled here. The taxpayers were unaware of the fact that their grandparents had set up a trust in the country they are from, for all the grandchildren. This trust had over time made good investments and earnings were being deposited into foreign bank accounts in their name. The family had completely forgotten about the grand-parents' trust and it's earnings until changed bank regulations in the home country required the account-holder's current information for their "Know-Your-Customer" policy. The taxpayers may be able to file delinquent foreign bank account disclosures and Forms 3520-A under the Streamlined Domestic Offshore Procedures, if they can successfully demonstrate non-willful conduct for failure to file required forms.

Conclusion

The IRS is constantly seeking compliance from Foreign Financial Institutions to reveal the names of U.S. citizens who have accounts with them and more of these institutions are complying with the rules. And an increasing number of countries are also signing the FATCA agreement with the U.S. In light of this, practitioners dealing with clients with delinquent foreign bank account disclosures should be familiar with each of the options, whether it is the Offshore Voluntary Disclosure Program (OVDP) or the Streamlined Domestic Offshore Procedures to effectively counsel clients as to which compliance path best fits the particular facts and circumstances of the case. Not every case is the same. **EA**

About the Author

Manasa Nadig, EA, *is the founder/owner of MN Tax and Business Services PLLC and a partner at Harris Nadig LLC, both based in the Metro Detroit, MI. Her practice caters to taxation and business needs of individuals, small enterprises, trusts, and non-profits. Nadig's specialization is in FATCA and FBAR compliance for cross-border entities and U.S. nationals within the country and abroad. She discusses various tax issues on her popular blog "The Buzz About Taxes" at www.thebuzzabouttaxes.com. Contact Manasa at manasa@mntaxsolutionsllc.com.*

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

ENDNOTES

1. 26 U.S. Code Sec. 6038D
2. Final Regulations issued via T. D. 9706 dated December 12th, 2014 Part V and Sec. 301.7701(b)-7]
3. 26 CFR 1.6038D-7 New in 2015 Part IV to Form 8938
4. 26 U.S. Code Sec. 6038D(d) and 26 CFR 1.6038D-8
5. As laid down in the Internal Revenue Manual 9.5.11.9 under "Voluntary Disclosure Practice"
6. IRS Makes Changes to Offshore Programs; Revisions Ease Burden and Help More Taxpayers Come into Compliance IR-2014-73, June 18, 2014

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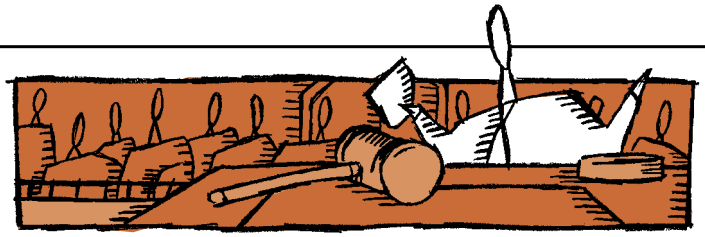

How Can A Taxpayer Substantiate Expenses for Automobile Travel?

David L. Charley and Julia A. Charley, Petitioners
v.
Commissioner of Internal Revenue, Respondent

T.C. Memo. 2015-232
Filed December 2, 2015

By Steven R. Diamond, CPA

A taxpayer may generally deduct from gross income the ordinary and necessary expenses of carrying on a trade or business that are paid or incurred during the tax year. A trade or business has been characterized as an activity carried on for livelihood or for profit. Expenses paid or incurred for the costs of operating an automobile are allowed for the part of those expenses that are attributable to a trade or business. These expenses include gasoline, oil, tires, insurance, repairs, depreciation, parking fees and tolls, licenses, and garage fees.

FACTS

Petitioners resided in Missouri when they filed their petition with the Tax Court.

In 2010, Mr. Charley was doing business at LubriDyne, an oil purification business. LubriDyne's clients were plastic injection molding operators who worked primarily with hydraulic oil. In 2010, the petitioners owned three automobiles: one for Mr. Charley's personal use, one for Mrs. Charley's personal use, and a third auto purchased that year for business travel.

In January 2010, Mr. Charley purchased a used Cadillac with 63,745 miles logged because his personal car had too many miles on it and it was not big enough to transport the equipment he used for business.

The best way for Mr. Charley to sell his product was to drive to clients and demonstrate how the equipment worked. Most of his trips began from home, where he had his office and stored his equipment. All of his business trips in 2010 were made in the Cadillac. Many of his clients were in a four- to five-hour radius of his home, although he did have clients in Colorado, California, and Wisconsin. If he did not return home by the end of each day, he would either spend the night in his car or drive through the night. If he stayed overnight at a location other than in his car, it would be with friends at their houses.

Mr. Charley kept client records on index cards and noted the date of each visit on those cards. Although the mileage to each client was not included on the index card, the business address was noted. Some of the index cards recorded visits to multiple clients in the same geographic area. His business plan was to generate as much income for LubriDyne as possible so that he could sell his equipment and retire.

In February 2010, Mr. Charley saw clients in Mountain Grove, MO, Flippin, AR, and Saint Genevieve, MO.

About the Author

Steven R. Diamond is a CPA with a tax practice located in Westport, Connecticut. His practice is limited to compliance issues and representation before the IRS. He has his M.S.M. degree in taxation from Florida International University, and he is admitted to practice before the United States Tax Court. Steven also taught a course preparing EAs and CPAs to take the Tax Court admission exam for non-attorneys.

In March 2010, he had client meetings in Brownsville and Laredo, TX; Kansas City, Chesterfield, and Grandview, MO; Lenexa, Lawrence, and McPherson, KS.

In April 2010, he met with clients in Iowa Falls and Franklin, IA; Indianapolis, IN; and Nicholasville, KY.

In May 2010, he met with clients in Iowa City and Muscatine, IA; Oshkosh, Walworth, Sheboygan, and Janesville, WI; Sand Springs and Tulsa, OK; and finished the month in Joplin, MO.

During July 2010, Mr. Charley met with clients in Excelsior Springs, MO; Denver, CO; and finally in Chino, Bakersfield, and Fresno, CA.

In November 2010, Mr. Charley had a remanufactured transmission installed in the Cadillac. The invoice noted the mileage on the Cadillac as 130,367.

Petitioners timely filed their 2010 Federal income tax return. On it, there was a Schedule C that reported gross sales of $2,500 and expenses of $24,713. The largest of which was for car and truck expenses of $20,625. The tax return reported 41,250 business miles and used the standard mileage rate for the car and truck expenses.

The Commissioner issued a notice of deficiency disallowing the reported car and truck expenses in full.

OPINION

IRC Sec. 162(a) allows as a deduction all ordinary and necessary expenses paid or incurred in carrying on a trade or business. An ordinary expense is one that is or occurs commonly or frequently in the business involved. An expense, to be necessary, must be "appropriate and helpful"[1] to the taxpayer's business. Additionally, the expense must be "directly related with or pertaining to the taxpayer's trade or business".[2]

Pursuant to IRC Sec. 274(d), a taxpayer must satisfy strict substantiation requirements before a deduction for travel, meals and entertainment, gifts, or listed property is allowed. While the Cohan[3] rule allows the Tax Court to estimate some deductible expenses, this rule does not apply to expenses under IRC Sec. 274(d).[4] Therefore, to satisfy the requirements of this section, a taxpayer must maintain records and documentary evidence that in combination are sufficient to establish each expenditure.

On his 2010 Federal income tax return, Mr. Charley reported 41,250 business miles out of over 66,000 miles he drove that year. To account for the fact that the Cadillac was driven more miles than was claimed as a business expense, he testified that he did not drive directly to a client and then directly home. Since business mileage must be strictly substantiated and cannot be estimated solely on the basis of his testimony about driving circuitous routes to visit his client, he could substantiate the miles by "his own statement… and by other corroborative evidence sufficient to establish"[5] them. The Tax Court found that Mr. Charley did have business mileage that he was able to substantiate through his testimony and index cards, -- but not in the amount that he reported on his tax return.

The Tax Court determined that Mr. Charley left his home office to begin each business trip. He would then return home the same day, drive through the night to return home the following day, or continue to another client in the same geographic location as the first client of the business trip. His index cards contained the business address for almost every client he visited in 2010. By allowing Mr. Charley the mileage for the shortest routes between his home office and the clients' addresses, the Tax Court determined that petitioners were entitled to car and truck expenses of 13,371 business miles for tax year 2010. EA

ENDNOTES

[1] Welch v. Helvering, 290 U.S. at 113
[2] Income Tax Regs. Sec.1.162-1(a)
[3] Cohan v. Commissioner, 39 F2d 540
[4] Sanford v. Commissioner, 50 T.C. 823
[5] Reg. 1.274-5T(c)(3)(i), Temp Income Tax Regs., 50 Fed Reg. 46020

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CLASSIFICATION OF FOREIGN BUSINESS ENTITIES

1. The classification of foreign business entities for U.S. tax purposes _____.
A. Cannot be determined
B. Mirrors their classification in their countries of organization
C. Is not necessarily self-evident
D. Is inconsequential

2. FEEs are _____.
A. Business entities that are not otherwise classified as corporations
B. Foreign per se corporations
C. Foreign trusts
D. Ineligible to elect their entity classification

3. Which of the following is an example of a per se corporation?
A. Limited Liability Company
B. Public Limited Company
C. Private Limited Company
D. Limited Liability Partnership

4. By default, a foreign entity is classified as a _____.
A. Corporation if no members have limited liability
B. Partnership if one member has unlimited liability
C. Partnership if all members have limited liability
D. Corporation if all members have unlimited liability

5. A hybrid entity is _____.
A. A foreign corporation classified as a corporation for U.S. tax purposes
B. A foreign partnership classified as a corporation for U.S. tax purposes
C. A foreign partnership classified as a disregarded entity for U.S. tax purposes
D. A foreign corporation classified as a partnership for U.S. tax purposes

6. The CTB regulations allow a _____.
A. Foreign single-member-owned entity to elect partnership status
B. Foreign partnership to elect disregarded entity status
C. Foreign single-member-owned entity to elect corporate status
D. Foreign nonbusiness entity to elect partnership status

7. Foreign foundations are generally treated as _____ for U.S. tax purposes.
A. Corporations
B. Trusts
C. Disregarded entities
D. Partnerships

8. A foreign business trust with three beneficiaries defaults to a(n) _____ for U.S. tax purposes.
A. Partnership
B. Corporation
C. Disregarded entity
D. Estate

STREAMLINED COMPLIANCE PROCEDURES

9. FATCA might require reporting by certain U.S. taxpayers of their foreign financial assets if their aggregate value during the calendar year ever exceeded:
A. $50,000
B. $75,000
C. $25,000
D. No lower limit

10. Form _____ is for reporting items required by FATCA.
A. 8621
B. 3520
C. 8938
D. 5471

11. You do not need to file Form 8938 if you are not required to file a U.S. tax return.
A.True
B. False

12. OVDP was offered by the IRS
A. For taxpayers who did not report their foreign bank accounts to come into compliance without any penalties
B. So that defaulting taxpayers can report their unreported US bank accounts and avoid penalties
C. Bring defaulting taxpayers into compliance with previous years of non-filing & have their penalties reduced
D. None of the above

13. Submitting Streamlined Offshore Compliance Procedures renders OVDP non-available to the taxpayer.
A.True
B. False

14. Streamlined Offshore Compliance Procedures are available to taxpayers residing in the U.S. or outside the U.S.
A. True
B. False

15. IRS may accept the Streamlined Offshore Compliance Procedures only if
A. The taxpayer provides reasonable cause for non-filing
B. The taxpayer demonstrates non-willfulness in his/ her non-compliance
C. Shows good faith misunderstanding of IRS procedures
D. All of the above

16. More countries are signing the FATCA agreement with the U.S.
A. True
B. False

17. To choose the streamlined procedure, the delinquent taxpayers have to certify that their failure to report foreign financial assets and pay tax on income therefrom did not result from willful conduct on their part, on a look-back period of _____ on FBAR and _____ for Form 8938.
A. Six previous years and three previous years
B. Five previous years and two previous years
C. Four previous years and one previous year
D. Three previous years and three previous years

18. The penalty under the Streamlined Procedure is _____ and the penalty under the OVDP could be _____.
A. 10% and 15% to 27.5%
B. 85% and 27.5% or 50%
C. 27.5% and 50% to 85%
D. 2% and 10% to 27.5%

TAX COURT CORNER

19. The Tax Court found that
A. Mr. Charley's testimony concerning his business mileage was frivolous
B. Based on Mr. Charley's testimony and the documentation reflected on his index cards, he would be entitled to claim a business miles expense on his tax return
C. IRC Sec. 274(d) requires taxpayers to keep records that are too onerous to maintain and should be stricken from the tax law
D. Mr. Charley was an adulterer and should have his Cadillac impounded

20. IRC Sec. 162(a) provides
A. that all ordinary expenses paid or incurred in carrying on an activity that constitutes a trade or business are not deductible without sufficient corroborating evidence
B. that a taxpayer cannot under any circumstances deduct expenses related to the use of a snowmobile during the summer months
C. a deduction for the use of an automobile when the taxpayer goes grocery shopping
D. a deduction for all ordinary and necessary expenses paid or incurred in carrying on any activity that constitutes a trade or business

Classifieds

IT PAYS TO BE AN NAEA MEMBER

By Courtney Doby

Your membership with the only association dedicated to serving enrolled agents comes with valuable marketing tools to help you build your business. The latest resource available to NAEA Members helps you promote your business and find new clients: the new and improved "Find an EA Directory." Launched earlier this year, the official directory of the National Association of Enrolled Agents offers a better user experience for both NAEA Members and taxpayers looking for an EA.

The new directory (taxexperts.naea.org) allows taxpayers to search for an EA within their zip code, selecting the mile radius and specialty they would like their tax preparer to have. Even better? Taxpayers can do all of these things on their phone or tablet and see the same website as people using a desktop computer.

We believe you will find that the new directory is a valuable tool to help you promote your business. All NAEA Member listings are optimized for major search engines such as Google, Yahoo, and Bing. The directory provides detailed traffic stats to show you how many taxpayers saw your listing, clicked on your listing, viewed your website and more. You also have the option to have this report emailed to you automatically each month. The new directory factors in the power of social media, allowing you to share your individual listing on your social media channels, as well as giving clients and prospective clients the ability to share your listing on their networks.

Additional marketing tools available to NAEA Members are available on naea.org to help you promote your business as well as the enrolled agent profession. To get there from NAEA's homepage, place your cursor over the "Membership" tab and click on "Member Resources" from the drop-down menu. Then, select "Marketing Tools for Members." Make sure you are logged into your NAEA account or you won't be able to access the page. Here is a sample of what you will find.

INFOGRAPHICS

These social media resources concisely explain what an enrolled agent is and directs people to eatax.org to learn more about why it is so important to hire a tax expert. We encourage you to share these new infographics on your Facebook and Twitter accounts with the hashtag: #WhatIsAnEA.

CUSTOMIZABLE NEWS RELEASES

Our customizable news releases eliminate the need for a PR department! In addition to these fill-in-the-blank templates, we also have easy to follow instructions on distribution. The topics available for you to customize include: membership in NAEA; CE completion; passing the SEE; IRS Tax Forum participation; achieving Fellow status; attending NTPI; attending NTPI graduate level; and associate membership.

EA ADS

Ad design is expensive. Your membership with NAEA gives you access to color and black and white ads in full-page, half-page and quarter-page sizes to accommodate any advertising budget. High-resolution for print and low-resolution versions for web are available.

BROCHURES

The "Enrolled Agents: America's Tax Experts" brochure gives readers an overview of the EA profession in a way that is easy for people to understand. A printable Word document version of is available for NAEA Members so it can be easily printed out in your office or home for distribution. We've heard from many members that this is a perfect piece of collateral to leave in their waiting rooms for clients to help educate them about the advantages of hiring an EA!

CLIENT NEWSLETTERS

NAEA's client newsletters resources are a perfect way for members to reach out to clients and potential clients and educate them about enrolled agents. Last year, we shared newsletters focusing on telephone scams, a checklist for tax return preparation and summertime tax tips. We have been told that the client newsletters alone are worth the price of membership in NAEA.

PLUGGING INTO THE SPEAKERS CIRCUIT TO PROMOTE YOUR BUSINESS

In an effort to get members out in the public helping to raise awareness of EAs, NAEA has tips for getting onto the speakers circuit. We have three PowerPoint presentations for members to use at their speaking engagements: "5 Secrets to Help You Avoid an IRS Audit," "Identity Theft," and "There's an App for That!"

LOGOS

You will find the NAEA, Enrolled Agent, and IRS Enrolled Agent logos under Marketing Tools for Members. Many members are raising awareness that EAs are America's Tax Experts by adding one or both of these logos to their email signatures or other marketing materials – we hope you will do the same! Please note that these logos are only intended for use by EAs in good standing.

EA COMMERCIAL FOR TV OR THEATRES

NAEA produced a thirty-second commercial spot that promotes enrolled agents. You can see an example of the spot on the Tools page, along with instructions. The commercial may be used to promote both affiliates and individual businesses. While the example shows contact information for a fictional EA at the end, the actual commercial allows space at the end to insert your affiliate information and logo or business name and contact information over the final images. You can also link the generic version to your practice website!

To help make running the ad more affordable, NAEA has partnered with NCM

Cinema Network, which handles advertising for 19,000 screens in forty-seven states and the District of Columbia. NCM has agreed to a discount for NAEA members.

EA RADIO ADS

There are currently three EA radio ads available for download on the Tools for Members page: "Five Items to Bring to Meet Your Tax Preparer" (as well as a pdf of the script); an ISEA radio commercial; and GAEA's ad with expert financial journalist Ilyce Glink.

LET'S TALK TAXES COLUMNS

NAEA Members wishing to be published in local or national publications find these columns, as well as the weekly press releases NAEA produces during tax season, a valuable resource. These columns are available to members NAEA who wish to sign on as regular columnists in print or online media, thereby raising awareness of EAs.

MEMBER SHARE

Have a grEAt idea to increase business or a tip for making the office run more smoothly? We want to hear about it! Members are encouraged to share their success stories (and lessons learned from projects that weren't so successful) here. If you have something to share, please send it to gjarvis@naea.org.

POSTAGE STAMP

Members have access to an NAEA postage stamp as well as an enrolled agent postage stamp. NAEA had the stamps professionally designed to promote the profession and the association. By following the instructions under "Tools for Members," members can download the artwork and create their own stamps — and promote EAs on every letter or package they send!

SOCIAL MEDIA HOW-TOS

Social media is a great way to raise awareness of enrolled agents, but not everyone is comfortable with it. Here, you will find two webinars that will help you gain a better understanding of why being on Facebook, Twitter, and LinkedIn is good for business.

NAEA hopes this information is useful to you and recommends you visit the NAEA website regularly to take advantage of these and other valuable member benefits. Thank you for your membership! **EA**

About the Author

Courtney Doby *is the marketing manager at NAEA. In this role, she assists with marketing for NAEA conferences, contributes to NAEA's social media presence, and also serves as an editor for E@lert. Courtney holds a Bachelor's Degree in Communication Studies from James Madison University.*

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

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By Julia Shenkar

Matt Groening, creator of *The Simpsons*, once lamented, "I know all those words, but that sentence makes no sense to me." As an enrolled agent, you may mutter something similar to yourself as you scan through the latest IRC update for the umpteenth time. Then, once you master the tax jargon, you must translate it into layman's terms and communicate with your clients. Challenging as this may be in English, some NAEA members go another step further and translate the IRC in the more traditional sense of the word—these EAs run a bilingual practice.

I recently interviewed three NAEA members who serve individuals speaking English as a second language (ESL). These ESL clients rely on their EAs to accurately translate the tax code and present it in a way that is easily understood in their native language. "One has to be sensitive to cultural connotations that are not always found in dictionaries," notes Tatiana Dudley, EA. Tatiana runs a virtual office from the greater Seattle area and provides services in English and Russian. "Explanations might be technically correct but fail to [yield] proper understanding."

How does Dudley mediate this problem? Dual sets of organizers and material. "Our main documents are in English," she says. "As a courtesy to clients, we provide some supplementary material in Russian." Providing documents written in Russian helps break down any language barriers that may exist, despite the best translation efforts. Often, native English speakers don't think twice about idioms or implied meanings when speaking to one another. When taxpayers from a different tax regime ask conceptual questions, they question the things Americans take for granted. "It's a challenge but a blessing as well," Dudley says. "It makes me look at various concepts from a different point of view and enhances my own understanding."

Practicing nationally and internationally, Karine Bauer, EA, notes that translating the tax code isn't necessarily difficult, but "very time consuming." Bauer publishes weekly and monthly articles in French on social media and on her website intended to assist her most common clients—foreign individual taxpayers and holders of investment visas. She finds it is often difficult to write in her native language using U.S. applications such as Constant Contact and GoDaddy as they are unable to handle accents over individual letters or special characters. She also stated that a major challenge of a bilingual practice is the limited number of resources issued by IRS for foreign taxpayers. Despite the extra effort, Bauer finds her bilingual work to be extremely rewarding. She acts as a bridge between old and new, "assisting new residents setting up and starting their lives in the U.S." She feels proud that she "helped [individuals] in their adjustment to their new lives in the United States."

Roberto Pons, EA, is a bilingual enrolled agent in Miami Lakes, FL. There, he serves fully-bilingual small business owners as well as first-generation immigrants. To help ease the transition from their old tax regime, Pons often speaks Spanish to clients. "Normally, first-generation immigrants are more comfortable talking about financial [matters] in their native language," Pons says.

All three EAs emphasized the importance of bilingual enrolled agents in the United States. "With the continuous migration of people from all over the world," Pons says, "there is always going to be a need for bilingual EAs." He also notes that this is a great opportunity for the next generation of enrolled agents. Many second-generation citizens could find work as enrolled agents and assist others in the same way their families were assisted upon arriving in the United States.

Dudley feels the same way. "There is definitely a market for bilingual EAs," she says. "I would like to stress that it is not only language, but [there is] a cultural component as well. I am working with people who are bilingual [and] more comfortable working with me since there are things that they do not have to explain because I understand exactly what they mean."

A recent post on NAEA's members-only Facebook group led us to discover just how many members speak multiple languages. Our EAs speak Spanish, French, German, Polish, Russian, Hindi, Hebrew, Hungarian, Igbo, Vietnamese, Japanese, Hmong, Telugu, and so many more. By speaking multiple languages, bilingual EAs are able to serve more than just English-speaking clients. As those I interviewed stated, a career as an EA is rewarding enough, but being bilingual adds to the prize. Being able to help immigrants begin their new lives in the United States and assist business owners in succeeding abroad means that these EAs are changing lives across the country and around the globe, one return at a time. **EA**

About the Author

Julia Shenkar *is the Managing Editor of the EA Journal and serves as NAEA's Educating America Program Manager. Julia holds a Bachelor's Degree in French and Non-Fiction Writing from Knox College.*

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

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