

# Rules of Engagement in Dealing With the IRS Part I

In practicing before the IRS regarding collection matters, penalty abatements and examinations, I have found certain "rules of engagement" helpful.

## 1. Never volunteer information, unless it is part of a strategy.

The IRS often asks us a lot of questions. To appear cooperative and move the case along, it is in our best interest to answer all questions directly, succinctly and narrowly. Answer the question and offer nothing more. On occasion, you may wish to strategically provide additional information to the auditor. For instance, sometimes volunteering information in one area may move the IRS away from asking questions in other, more difficult, areas. In other situations you are trying to provide the IRS employee a human perspective on the client (i.e. Taxpayer's mom died last December after fighting lung cancer for five years. Taxpayer would visit her every day!).

## 2. Never provide materials/documents to the IRS that you have not reviewed carefully — bank statements, paycheck stubs, credit card statements, etc.

The documents may contain information that is not helpful to your client. For example, in the context of determining the amount of an installment agreement, the IRS requests three months of recent bank statements to support your disclosures in form 433. In such cases, I will secure six months of recent bank statements from my client and I will choose which three months of statements to provide the IRS. In doing so, I will total up the deposits and make sure they are consistent with my client's representations of income. In following this process, you should investigate all significant discrepancies. Familiarize yourself as to whom the checks have been written to, for what purposes, and in what amounts. In choosing which three months of statements you are providing the IRS, you are still meeting their requirements, but you are doing so on your terms and in good defense of your client.

## 3. Assert yourself as appropriate.

One way of doing so is to learn how to say phrases such as:

- "Please give me your manager's name and phone number."
- "What is your authority for that position?"
- "Who is your territory manager?"
- "Are you refusing to provide that information to me?"

From first line staffers at the IRS 800 numbers all the way up to Appeal Officers, I have found that these phrases enable me to secure a clear chain of command and a true understanding of the positions the IRS is taking. On several occasions, the IRS has cited authority — a case or IRM section — for their position that actually supported my contention. In such situations the IRS representative had not carefully read the authority or was simply bluffing, figuring that I would not take the time to read the cited authority. In one



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Appeal involving tens of thousands of dollars, the Appeals Officer told me that there was a case on point supporting the IRS position. I presumed he was correct and politely asked him to send me the case before issuing his report. I followed up after the conference with several phone calls and faxes. After about a month, the Appeals Officer simply told me he was finding in my favor, never providing the case on point nor admitting that there was no such case supporting his position to begin with!

In the rare case that a Revenue Officer refuses to provide me the name and telephone number of his/her manager, I will say "Let me make this very clear. I have asked for the name and phone number of your manager and you are refusing to provide that information to me. Do I have that right?" Four out of five times such an assertive technique when making reasonable requests will secure the information you are seeking. (Those who work on the "800" numbers are not allowed to provide their managers phone numbers, but still should provide the name of their manager when asked. They should offer to provide a manager callback within 48 hours.)

## 4. Always ask for the full name and employee ID number.

When calling the IRS be sure to get the ID number of each and every IRS employee you speak with, as well as the correct spellings of their names. This should be done at the beginning of each conversation, before the possibility of the call becoming contentious. By doing so, you will be able to backtrack to that individual if you find that behavior inappropriate or exemplary. Reporting both kinds of behavior to IRS management will likely make your feedback more effective and provide you with a reputation as a practitioner who is both fair and tenacious in representing your clients. ☺

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