

What Does Enforcement Look Like Today?

While Congress debates whether to fund more IRS enforcement, the Service continues to prioritize certain audit and criminal enforcement issues. This panel will discuss areas of current IRS focus, such as information return penalties, innocent spouse claims in the Tax Court, captive insurance, conservation easements, John Doe summonses, passport restrictions, and repatriation of assets.

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Topics du Jour

- ❖ Information Return Penalties
- ❖ Innocent Spouse
- ❖ Micro-Captive Insurance
- ❖ Conservation Easements
- ❖ John Doe Summonses
- ❖ Passport Revocation and Denial
- ❖ Repatriation

Information Return Penalties

Information Returns

- Information returns are tax filings that do not establish a tax liability
 - Both individuals and entities can be required to file information returns
- Failure to file information returns timely and accurately can result in harsh penalties
- Some examples of information returns are:
 - FBAR
 - Form 8938
 - Forms 3520 and 3520A
 - Form 5472

Recent Developments

- Active IRS Campaigns
 - 3520 & 3520A – The IRS currently has a campaign running to improving compliance with respect to the timely and accurate filing of information returns reporting ownership of and transactions with foreign trusts
 - High Income Non-Filers – the goal of this campaign is to bring into compliance high-income taxpayers who have not filed tax return
- 3520-A Penalties
 - The Second Circuit held in July that a foreign trust owner/beneficiary is liable for the 35% penalty for failure to report trust distribution
- Defining “Willfulness”
 - In an October 2021 case, a court in the Ninth Circuit determined that a taxpayer who had included a Schedule B on her return put her on notice that she also had an FBAR filing obligation, and that her failure to file the FBAR for those years constituted a willful violation of her filing requirement

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