

LEA Global

Representing Clients in IRS and State Examinations

June 22, 2023



Rising Star Association



INTERNATIONAL ACCOUNTING BULLETIN



Welcome – This Webinar Will Begin Momentarily

Housekeeping Items

- This webinar will be recorded.
- The link to the recording and PowerPoint will be posted on the Events registration page on LEA's member portal post webinar. An email will also be sent to today's attendees with this information.
- Please use the chat box to share comments or questions.
- This webinar is eligible for 1 Continuing Professional Education (CPE) credit.
- Four (4) polling questions – will be initiated throughout this webinar to monitor engagement as required by NASBA standards.
- Your CPE certificate will be emailed to you in a couple of weeks.
- You will receive an email asking you to complete an evaluation of this webinar. Please take time to complete this as your input is valuable when planning for future webinars.

Your Presenters

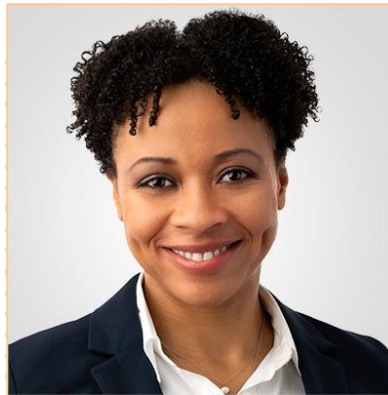


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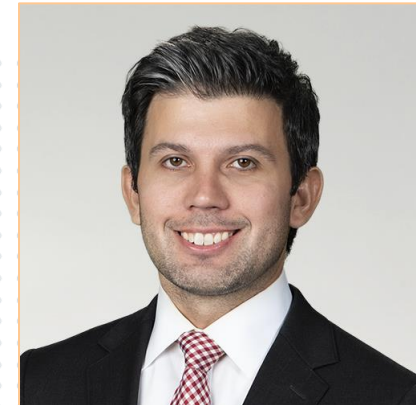


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Agenda

IRS Field Examinations - SBSE and LBI Divisions

IRS Correspondence and Automated Underreporter Examinations

State Revenue Dept. Examinations (Audits)



IRS Field Examinations – SBSE & LBI Divisions

Agenda

Background - Exam Process

SB/SE vs. LBI Exams

“IDR” Process

Proposed Adjustments - Understanding the “NOPA”

Examination Reports - Understanding the “RAR”

Managerial Conferences

Appeals

IRS Publication 556



Department of the Treasury
Internal Revenue Service

Publication 556
(Rev. September 2013)
Cat. No. 15104N

Examination of Returns, Appeal Rights, and Claims for Refund



Get forms and other information
faster and easier by:
Internet [IRS.gov](https://www.irs.gov)

Sep 26, 2013

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The IRS Mission

Provide America's taxpayers top quality service by helping them understand and meet their tax responsibilities and by applying the tax law with integrity and fairness to all.

Reminders

Penalty for filing erroneous claim for refund or credit. You may have to pay a penalty if you file an erroneous claim for refund or credit. See *Penalty for erroneous claim for refund*, later under *Claims for Refund*.

Interest and penalties suspended if notice not mailed within 36 months. If you file your return timely (including extensions), interest and certain penalties will be suspended if the IRS does not mail a notice to you within 36 months. See *Suspension of interest and penalties*, later under *Examination of Returns*.

Fast track mediation. The IRS offers fast track mediation services to help taxpayers resolve many disputes resulting from:

- Examinations (audits),
- Offers in compromise,
- Trust fund recovery penalties, and
- Other collection actions.

See *Fast track mediation* under *If You Do Not Agree*.


Introduction

The Internal Revenue Service (IRS) accepts most federal tax returns as filed. However, the IRS examines (or audits) some returns to determine if income, expenses, and credits are being reported accurately.

If your return is selected for examination, it does not suggest that you made an error or are dishonest. Returns are chosen by computerized screening, by random sample, or by an income document matching program. See *Examination selection criteria*, later. You should also know

IRS Publication 1

The Right to Retain Representation



Your Rights as a Taxpayer

Publication 1

This publication explains your rights as a taxpayer and the processes for examination, appeal, collection, and refunds. Also available in Spanish.

The Taxpayer Bill of Rights

1. The Right to Be Informed

Taxpayers have the right to know what they need to do to comply with the tax laws. They are entitled to clear explanations of the laws and IRS procedures in all tax forms, instructions, publications, notices, and correspondence. They have the right to be informed of IRS decisions about their tax accounts and to receive clear explanations of the outcomes.

2. The Right to Quality Service

Taxpayers have the right to receive prompt, courteous, and professional assistance in their dealings with the IRS, to be spoken to in a way they can easily understand, to receive clear and easily understandable communications from the IRS, and to speak to a supervisor about inadequate service.

3. The Right to Pay No More than the Correct Amount of Tax

Taxpayers have the right to pay only the amount of tax legally due, including interest and penalties, and to have the IRS apply all tax payments properly.

4. The Right to Challenge the IRS's Position and Be Heard

Taxpayers have the right to raise objections and provide additional documentation in response to formal IRS actions or proposed actions, to expect that the IRS will consider their timely objections and documentation promptly and fairly, and to receive a response if the IRS does not agree with their position.

5. The Right to Appeal an IRS Decision in an Independent Forum

Taxpayers are entitled to a fair and impartial administrative appeal of most IRS decisions, including many penalties, and have the right to receive a written response regarding the Office of Appeals' decision. Taxpayers generally have the right to take their cases to court.

6. The Right to Finality

Taxpayers have the right to know the maximum amount of time they have to challenge the IRS's position as well as the maximum amount of time the IRS has to audit a particular tax year or collect a tax debt. Taxpayers have the right to know when the IRS has finished an audit.

7. The Right to Privacy

Taxpayers have the right to expect that any IRS inquiry, examination, or enforcement action will comply with the law and be no more intrusive than necessary, and will respect all due process rights, including search and seizure protections, and will provide, where applicable, a collection due process hearing.

8. The Right to Confidentiality

Taxpayers have the right to expect that any information they provide to the IRS will not be disclosed unless authorized by the taxpayer or by law. Taxpayers have the right to expect appropriate action will be taken against employees, return preparers, and others who wrongfully use or disclose taxpayer return information.

9. The Right to Retain Representation

Taxpayers have the right to retain an authorized representative of their choice to represent them in their dealings with the IRS. Taxpayers have the right to seek assistance from a Low Income Taxpayer Clinic if they cannot afford representation.

10. The Right to a Fair and Just Tax System

Taxpayers have the right to expect the tax system to consider facts and circumstances that might affect their underlying liabilities, ability to pay, or ability to provide information timely. Taxpayers have the right to receive assistance from the Taxpayer Advocate Service if they are experiencing financial difficulty or if the IRS has not resolved their tax issues properly and timely through its normal channels.

The IRS Mission

Provide America's taxpayers top-quality service by helping them understand and meet their tax responsibilities and enforce the law with integrity and fairness to all.

Publication 1 (Rev. 9-2017) Catalog Number 64731W Department of the Treasury Internal Revenue Service www.irs.gov

Examination Process - *The “Flow” of the Exam*

Planning Phase

- Risk Analysis - Issue Identification
- Timeline
 - Milestones
 - “MCD” (SB/SE) or “ECD” (LBI)

Execution Phase

- Information Document Request (“IDR”) Issuance
- Issue Development

Resolution Phase

- Notice of Proposed Adjustment (“NOPA”)
- The Form 4549 – Revenue Agent’s Report (“RAR”)
- Managerial Conference
- Appeals

SB/SE vs. LBI Examinations - *“Field” Revenue Agents*

Small Business/Self-Employed (SB/SE) Division


- Forms 1120, 1120S, 1065 with assets < \$10 million
- Large Form 1040 Returns
 - Large Schedule(s) C or F
 - Complex Schedule E

Large Business International (LBI) Division

- Forms 1120, 1120S, 1065 with assets > \$10 million

Letter 2205L

Selected for Examination (LBI)



Department of the Treasury
Internal Revenue Service
Large Business & International

Date:

Taxpayer ID number: (last four digits only)

Forms:
1040

Tax periods:

Person to contact:

Employee ID number:

Contact telephone number:

Contact fax number:

Work paper number:

Dear ,

Your federal return for the periods shown above was selected for examination.

What you need to do
Call me on or before . You may contact me from 8:00 to 4:30 at the telephone number above.

During our conversation, we'll talk about the items I'll be examining on your returns, the types of documents I'll ask you to provide, the examination process, and any concerns or questions you may have. We'll also set the date, time, and agenda for our first meeting.

Someone can represent you
You can have someone represent you during any part of this examination. If you want representation, you and the representative you authorize must provide a completed Form 2848, *Power of Attorney and Declaration of Representative*, before we can discuss any of your tax matters.

If you won't be present, you can mail or fax the form to me or have your representative bring it to the first appointment.

Your rights as a taxpayer
Publication 1, *Your Rights as a Taxpayer*, Publication 5125, *Large Business & International Examination Process*, and Notice 609, *Privacy Act Notice*, provide detailed information of the examination process.

The Taxpayer Bill of Rights, found in Publication 1, describes the ten fundamental rights taxpayers have in dealing with the IRS. Publication 1 also discusses general rules and procedures we follow in examinations. It explains what happens before, during, and after an examination, and provides additional sources of information.

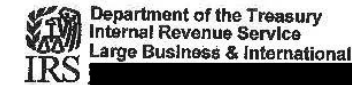
The IRS will sometimes contact third parties if we need information regarding your case. Our need to contact other persons may continue as long as there is activity in your case.

You can get any forms, notices or publications mentioned above by visiting our website at www.irs.gov/forms-pubs, or by calling 800-TAXFORM (800-829-3676).

I look forward to hearing from you by 8/30/2018 .

Letter 2205-L (Rev. 4-2017)
Catalog Number 69810W

Appointment Confirmation Letter



Date: 09/24/2018
Taxpayer ID number (last 4 digits): [REDACTED]
Tax form: 1120-S
Tax periods: 201612
Person to contact: [REDACTED]
Employee ID number: [REDACTED]
Contact telephone number: [REDACTED]
Contact fax number: [REDACTED]

Dear [REDACTED]

I'm confirming the following appointment we scheduled during our telephone conversation on September 12th.

Appointment information

Location:
Via Teleconference

Date:
October 2, 2018

Time:
10:00 A.M.

Purpose of the appointment

The purpose of our first meeting is to help me understand your business operations and policies, and to begin the examination process. We'll discuss specific examination procedures, such as communication methods, response times, and other general expectations. Have the items listed on the enclosed Form 4564, *Document Request*, available for our first appointment.

Someone can represent you

You can have someone represent you during any part of this examination. If you want representation, you and the representative you authorize must provide a completed Form 2848, *Power of Attorney and Declaration of Representative*, before we can discuss any of your tax matters.

Your rights as a taxpayer

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You can get any of the forms, notices or publications mentioned above by visiting our website at www.irs.gov/forms-pubs, or by calling 800-TAXFORM (800-829-3676).

Letter 3253-L (Rev. 4-2017)
Catalog Number 60414U

Information Document Request (IDR) – *The Process*

Initial (“Books and Records”) vs. Issue Specific IDRs

Draft (LBI) or Informal Discussion (SB/SE)

- Influencing the Revenue Agent

Key Factors

- Addressing the issue without an IDR
- Scope and depth
- Response timeframe

The Agreement of Facts (AOF) IDR – LBI exams

Initial IDR – “books and records”

Form 4564 (Rev. September 2005)	Department of the Treasury — Internal Revenue Service Information Document Request	Request Number 1
To: (Name of Taxpayer and Company Division or Branch) [REDACTED]		Subject Financial Information SAIN Number 750 Dates of Previous Requests
Submitted To: [REDACTED]		

Please return Part 2 with listed documents to requester identified below

Description of documents requested
Audit Years: 201612

Purpose of this IDR - LB&I Examinations require certain mandatory financial and organizational information to perform the audit.

- a) Trial Balance - For the year prior to the Audit year and the Audit Year(s) by account.
- b) Closing Journal Entries and Adjusting Journal Entries.
- c) Bridge Workpapers (Tax Return Mapping the trial balance account(s) which comprise each tax return line).
- d) Summary of the Schedule M Adjustments and the supporting documentation for each adjustment.
- e) Chart of Accounts and/or Account Descriptions.
- f) Tax Credit Computations with Workpapers, supporting records and receipts of foreign taxes paid.
- g) Detailed Depreciation Schedule.
- h) Details supporting Gains and Losses not specified on Tax Returns.
- i) Schedule of All Prior Years Carryover Adjustments.
- j) Tax Organization Chart and Legal Organization Chart
- k) Audited Financial Statements, Annual Reports to Stockholders, SEC Reports (10-K).
- l) Corporate Minutes, Shareholder Minutes, Board Minutes (for review at initial meeting).
- m) Copies of National Office (Headquarters) Rulings or Other Correspondence.
- n) Working Copy of the following Tax Returns for all years in the current cycle:
 - i) Forms 1120/ 1120S (original and amended)
 - ii) Domestic Entity Unconsolidated Returns
 - iii) Partnership/S-Corporation Returns
- o) Financial Statements for a Joint Venture not requiring a Formal Return.
- p) Affirmative Issues from the Audit Year(s).

Information Due By	10/02/2018	At Next Appointment	<input checked="" type="checkbox"/>	Mail In	<input type="checkbox"/>
From:	Name and Title of Requester [REDACTED]	Employee ID number [REDACTED]	Date (mm/dd/yyyy) 09/24/2018		
	Internal Revenue Agent				
	Office Location [REDACTED]	Telephone Number [REDACTED]			

Agreement of Facts (AOF) IDR LBI Examinations

Importance of accurate facts summary in a tax case

- Incorrect facts often lead to erroneous legal outcomes

Cases returned to exam team by Appeals in factual disputes

- IRS Appeals Division resolves legal questions not factual disputes
- Determining and correctly summarizing facts is an examination function

Agreement of Facts IDR

02/12/2019 8:51:37 AM -0600 IRS

PAGE 21 OF 21

Form 4564 (Rev. September 2006)	Department of the Treasury — Internal Revenue Service Information Document Request	Request Number AOF--9
To: (Name of Taxpayer and Company Division or Branch) [REDACTED]		Subject Revised Agreement of Facts on [REDACTED] SAIN Number [REDACTED] Submitted To: [REDACTED] 502-05 [REDACTED] Dates of Previous Requests [REDACTED]
Please return Part 2 with listed documents to requester identified below		

Description of documents requested

The purpose of this IDR is to ensure that all relevant facts are being considered before the Form 5701, Notice of Proposed Adjustment (NOPA), is issued.

Please review the attachment and respond accordingly in writing by February 21, 2019

(a) Taxpayer agrees to the facts as written.

(b) Taxpayer provides additional relevant facts and supporting documentation.

(c) Taxpayer identifies disputed facts and provides clarification and/or supporting documentation.

Your response to the facts does not indicate agreement to the issue or any proposed tax adjustment. It is only to acknowledge that all of the relevant facts have been identified.

Information Due By 02/21/2019		At Next Appointment <input type="checkbox"/>	Mail in <input checked="" type="checkbox"/>
From:	Name and Title of Requester [REDACTED] Internal Revenue Agent	Employee ID number [REDACTED]	Date (mmdd/yyyy) 02/07/2019
	Office Location [REDACTED]	Telephone Number [REDACTED]	

Catalog Number 23145K www.irs.gov Part 1 - Taxpayer's File Copy Form **4564** (Rev. 9-2006)

Facts Summarized on Form 886

Form 886-A (Rev. January 1994)	Explanation of Items	Schedule number or exhibit
Name of taxpayer	Tax Identification Number	Year/Period ended
		201512, 201612, 201712

Form 1125-A, Cost of Goods Sold, Line 5 Other Costs			
Year(s)	Per Return	Per Exam	Adjustment
201512	\$	\$	\$
201612	\$	\$	\$
201712	\$	\$	\$

Issue

Whether funds deposited by the taxpayer with a captive “insurance” company should be treated as an insurance premium expense for the taxable years ended December 31, 2015, 2016 and 2017 respectively.

Facts¹

Taxpayer Business Overview

and its Subsidiaries (“Taxpayer”) filed consolidated U.S. Federal income tax returns for the years at issue.² Taxpayer is as a Professional Employer Organization (“PEO”) that provides payroll, insurance, human resources and administrative services to its clients primarily located in the . As a PEO, the taxpayer can leverage the large pool of client employees to provide workers compensation insurance coverage at favorable rates—rates that smaller employers would have difficulty obtaining on their own. Such rate savings can often be passed on to clients to compel them to sign on with a PEO. The remainder of this fact section will focus on describing key aspects of the taxpayer’s workers compensation policies in place during the years at issue and will explain how certain expenditures associated with those policies were treated for Federal income tax purposes.

Workers Compensation Overview

Many PEOs, including the Taxpayer, utilize a loss-sensitive workers compensation policy whereby the premiums are largely influenced by the total dollar amount of claims filed against the policy, i.e. the employers with high claims histories usually have higher premiums. By purchasing a loss-sensitive deductible policy, an employer can substantially reduce their overall workers compensation since an insurer will discount the premium in exchange for an employer assuming a deductible obligation. The formulas used by insurers to compute premium rates under loss-sensitive deductible policies can be very complicated, but generally the higher the deductible dollar limits of a policy, the greater the premium discount given to an employer.

¹ Exhibit A: In response to Form 4549, Information Document Request titled Agreement of Facts (“AOF”) #005, the Power of Attorney (“POA”) provided facts and clarifications regarding the Taxpayer operations with following headings: Business Overview, Summary of , Scope of Services for Clients, and Risk Management Services and Workers’ Compensation Coverage, some of which has been incorporated into this document.
² Taxable years ending 12/31/15 and 12/31/16 have been placed under exam and may be referred to as, “the years at issue.”

IDR Summary - *Advocating for the Client*

Influencing the Revenue Agent (RA)

- **Addressing the issue without an IDR**
RA may be open to resolving issue w/o another IDR
- **Scope and depth of the request**
Limiting the documents requested
- **Response timeframe**
Obtaining additional time
IRS IDR enforcement process

Proposed Adjustments – *Understanding the LBI “NOPA” or SB/SE Lead Sheet*

The LBI Form 5701/Form 886

- Notice of Proposed Adjustment (“NOPA”) and response options

The SB/SE Lead Sheet

- Attached to Form 4549 – Revenue Agent Report (“RAR”)

Factors to consider

IRS Form 5701 w/Form 886

Form **5701**
(Rev. December 2006)

Department of the Treasury - Internal Revenue Service
Notice of Proposed Adjustment

Name of taxpayer

Issue No.

Name and title of person to whom delivered

Date

Entity for this proposed adjustment

Based on the information we now have available and our discussions with you, we believe the proposed adjustment listed below should be included in the revenue agent's report. However, if you have additional information that would alter or reverse this proposal, please furnish this information as soon as possible.

Years	Amount	Account or return line	SAIN NO.	Issue Code

Reasons for Proposed Adjustment (If the expiration of the adjustment will be longer than the space provided below, the entire explanation should begin on Form 886-A (Explanation of Items).)

Taxpayer's / Representative's Action:
☐ Agreed ☐ Agreed in Part ☐ Disagreed ☐ Have additional information; will submit by:

Taxpayer's / Representative's Signature

Date

If Disagreed in Part or in Full - Check here for consideration of Fast Track Settlement
☐ Taxpayer ☐ IRS

Team Manager

Date

Part 1 - Taxpayer's File Copy

Cat. No. 42770J

www.irs.gov

Form **5701** (Rev. 12-2006)

Name of taxpayer	Tax Identification Number	Year/Period ended
		201512, 201612, 201712

Form 1125-A, Cost of Goods Sold, Line 5 Other Costs			
Year(s)	Per Return	Per Exam	Adjustment
201512	\$	\$	\$
201612	\$	\$	\$
201712	\$	\$	\$

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² Taxable years ending 12/31/15 and 12/31/16 have been placed under exam and may be referred to as, “the years at issue.”

The SB/SE Lead Sheet

Taxpayer Name: [REDACTED] Examiner: [REDACTED]
TIN: [REDACTED]
Tax Form: 1040 Date: 6-27-2018
Tax Years: 2014, 2015

Form 4797, Ordinary Loss
Lead Sheet

Determined Using Form 8582, "Passive Activity Loss Limitations"

Tax Period	Per Return	Per Exam	Adjustment	Reference
2014	[REDACTED]	[REDACTED]	[REDACTED]	
2015	[REDACTED]	[REDACTED]	[REDACTED]	

Conclusion:

Revised Form 4797 flow-through losses were the result of limitations imposed under Code Section 469. Re-calculated losses were determined using Form 8582 for each specific year.

After considering all Form 4797 adjusted items for each audit year, corrected net Form 4797 amounts per year remained "net" losses. Consequently, each year's losses remain "Ordinary" losses.

The above adjustments reduce reported losses on each year's Form 1040, Line 14.

Facts:

The audit of Schedule E, partnerships and rentals in 2014 & 2015 resulted in recharacterization of some reported losses from "non-passive" to "passive" in both years. Also, in both audit years, only a minimal amount of disallowed expenses was proposed on one rental property.

Among the various "passive" line items were some Form 4797 losses.

Because of the changes made to reported "passive" income and losses, passive loss limitations were re-calculated to determine corrected deductible line item amounts in each year.

Form 8582, "Passive Activity Loss Limitations" was used for this purpose. It effectively reallocated deductible loss amounts per line item.

RE: 2014

In 2014, only one reported Form 4797 passive loss item from [REDACTED] required an adjustment. Based on passive loss limitations determined using Form 8582 & associated worksheets, the recalculated allowable Form 4797 loss is now [REDACTED]. The deducted loss per return was [REDACTED].

Proposed Adjustments - *Factors to Consider*

LBI Response to NOPA

- Response timeframes are agreed to at beginning of exam typically 15 to 30 days
- Written response is best

SB/SE Response (consolidated process w/RAR issuance)

- Lead Sheet and Supporting W/Ps usually attached to “RAR”
- Response timeframe governed by cover letter w/ “RAR” usually 30 days (sometimes 15)

Response to NOPA



March 4, 2019

PRIVILEGED AND CONFIDENTIAL

Internal Revenue Service

LB&I: [REDACTED]

Re: [REDACTED]

Tax Period: December 31, 2015

Dear [REDACTED]:

On behalf of the above referenced taxpayer, we are responding to [REDACTED] faxed to our attention on February 12, 2019 that proposes the imposition of IRC § 6662(a) penalty for the year ended December 31, 2015 of \$64,632. Based on the pertinent facts and the applicable Internal Revenue Code and Treasury Regulations referenced below, we believe the Service should not impose penalties for substantial understatement assessed under IRC § 6662(b)(2) and respectfully request the abatement of such penalties.

Background

As previously presented, [REDACTED] is a [REDACTED] Corporation that provides creative and flexible solutions to a variety of small to mid-sized companies.¹ In 2015, [REDACTED] negotiated on behalf of itself and its unrelated (third-party) clients to enter into a deductible reimbursement workers' compensation policy ("DRP") with [REDACTED]. Under the terms of the "[REDACTED] Client Service Agreement", [REDACTED] reinsured the risks under the DRP with [REDACTED] and paid the federal excise tax due at a rate of 1% with respect to the policy of reinsurance issued by [REDACTED]. The following is a summary of the risk associated with the DRP that was shifted from [REDACTED] and its unrelated (third party) clients to [REDACTED] and [REDACTED].

¹ For further details please see September 11, 2018 response to Form 4564 and Information Document Request AOP-5 (IDR-005).

BETTER TOGETHER
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www.btcpanet

Examination Reports - *Understanding the “RAR”*

The Form 4549 – Income Tax Examination Changes

- Commonly known as the Revenue Agents Report (“RAR”)

Similar Mathematically to an Amended Return

The “Waiver”

- Waving appeal rights to agree
- Can be on page 2 on a separate form (Form 870)

Response to NOPA

Form 4549-A (Rev. March 2013)		Department of the Treasury-Internal Revenue Service Income Tax Examination Changes (Unagreed and Excepted Agreed)		Page <u>1</u> of <u>2</u>	
Name and Address of Taxpayer <div></div>		Taxpayer Identification Number <div></div>		Return Form No.: 1040	
		Person with whom examination changes were discussed: ROGER K & SHAWNNA PATTERSON		Name and Title: ROGER K & SHAWNNA PATTERSON	
1. Adjustments to Income		Period End 12/31/2015	Period End	Period End	
a. Other Gains or Losses From Form 4797		25,885.00			
b. Schedule B: R.E. Professional Status & Passive L		2,233,394.00			
c. Itemized Deductions		67,776.00			
d.					
e.					
f.					
g.					
h.					
i.					
j.					
k.					
l.					
m.					
n.					
o.					
p.					
2. Total Adjustments		2,127,057.00			
3. Taxable Income Per Return or as Previously Adjusted		14,021,037.00			
4. Corrected Taxable Income		16,348,094.00			
Tax Method		SCHEDULE D			
Filing Status		Joint			
5. Tax		3,235,142.00			
6. Additional Taxes / Alternative Minimum		53,600.00			
7. Corrected Tax Liability		3,288,742.00			
8. Loss					
a. Foreign Tax Credit		1,275.00			
Credits					
b.					
c.					
d.					
9. Balance (Line 7 less total of Lines 8a thru 8d)		3,287,467.00			
10. Plus					
a. Additional Medicare Tax		1,257.00			
Other					
Taxes					
b.					
c.					
d.					
11. Total Corrected Tax Liability (Line 9 plus Lines 10e thru 10d)		3,288,724.00			
12. Total Tax Shown on Return or as Previously Adjusted		2,836,869.00			
13. Adjustments to:					
a.					
b.					
c.					
14. Deficiency-Increase in Tax or (Overassessment - Decrease in Tax) (Line 11 less Line 12 adjusted by Lines 13a through 13c)		451,856.00			
15. Adjustments to Prepayment Credits-Increase (Decrease)					
16. Balance Due or (Overpayment) - (Line 14 adjusted by Line 15) (Excluding interest and penalties)		451,856.00			

Form 4549 "RAR" - Page 2

Form 4549-A (Rev. March 2013)	Department of the Treasury-Internal Revenue Service Income Tax Examination Changes (Unagreed and Excepted Agreed)	Page <u>2</u> of <u>2</u>
Name of Taxpayer [REDACTED]	Taxpayer Identification Number [REDACTED]	Return Form No.: 1040
17. Penalties/ Code Sections	Period End	Period End
a. Accuracy-IRC 6662	90,371.20	
b.		
c.		
d.		
e.		
f.		
g.		
h.		
i.		
j.		
k.		
l.		
m.		
n.		
18. Total Penalties	90,371.20	
Underpayment attributable to negligence: (1981-1987) A tax addition of 50 percent of the interest due on the underpayment will accrue until it is paid or assessed.		
Underpayment attributable to fraud: (1981-1987) A tax addition of 50 percent of the interest due on the underpayment will accrue until it is paid or assessed.		
Underpayment attributable to Tax Motivated Transactions (TMT). Interest will accrue and be assessed at 120% of underpayment rate in accordance with IRC 6621(c).	0.00	
19. Summary of Taxes, Penalties and Interest:		
a. Balance due or (Overpayment) Taxes - (Line 16, Page 1)	451,856.00	
b. Penalties (Line 18) - computed to 07/31/2018	90,371.20	
c. Interest (IRC § 6601) - computed to 08/30/2018	54,508.39	
d. TMT Interest - computed to 08/30/2018 (on TMT underpayment)	0.00	
e. Amount due or refund - (sum of Lines a, b, c and d)	596,735.59	
Other Information:		

In an Agreed Case - *The “Waiver”*

Form **870**
(Rev. March 1992)

Department of the Treasury—Internal Revenue Service
**Waiver of Restrictions on Assessment and Collection of
Deficiency in Tax and Acceptance of Overassessment**

Date received by
Internal Revenue Service

Names and address of taxpayers (Number, street, city or town, State, ZIP code)

Social security or employer
identification number

Increase (Decrease) in Tax and Penalties					
Tax year ended	Tax	Penalties			

(For instructions, see back of form)

Consent to Assessment and Collection

I consent to the immediate assessment and collection of any deficiencies (increase in tax and penalties) and accept any overassessment (decrease in tax and penalties) shown above, plus any interest provided by law. I understand that by signing this waiver, I will not be able to contest these years in the United States Tax Court, unless additional deficiencies are determined for these years.

YOUR SIGNATURE HERE →		Date
SPOUSE'S SIGNATURE →		Date
TAXPAYER'S REPRESENTATIVE HERE →		Date
CORPORATE NAME →		
CORPORATE OFFICER(S) →	Title	Date
SIGN HERE →	Title	Date

Catalog Number 16894U

Form **870** (Rev. 3-1992)

AUR Program - Overview

- WHAT is the AUR Program?
- Responding to CP 2501 & CP 2000 Notices Overview
- Best Practices for Responding to AUR notices
- Explanation of Notice of Deficiency – “90-day letter”
- Notice CP3219A Explanation
- Responses to Notice 3219A – RECON and Tax Court



AUR Program



AUR Program - Overview

What is the AUR Program?

- Matches taxpayer income and deductions submitted on information returns by third parties
 - **1099s**
 - **W-2s**
 - **K-1s**
- Computer matching AFTER original due date – not matched in real time
- A compliance program of the IRS
 - **Similarities with a Correspondence Exam**
- Program flags returns that report LESS income than reported by third parties

CP 2501 - Overview

Important message about your 2020 Form 1040

Your tax return doesn't match the information we have on file

The income and payment information we have on file from sources such as employers or financial institutions does not match the information you reported on your tax return.

What you need to do immediately

Review this notice and compare what you listed on your 2020 tax return to the amounts reported to the IRS by others.

If you agree with the information reported by other sources

- Complete, sign and date the Response form on Page 5, and mail it to us so we receive it by April 27, 2022.

If you don't agree with the information reported by other sources

- Complete the Response form on Page 5, and send it to us along with a signed statement and any documentation that supports your claim so we receive it by April 27, 2022.

If we don't hear from you

If we don't receive a response from you by April 27, 2022, we will send you a notice stating the proposed changes to your tax return and the amount of additional tax you owe plus any penalties and interest that apply.

CP 2501- Overview

Differences between your 2020 Form 1040 and information from Other sources

This section tells you specifically what income information the IRS received about you from others (including your employers, banks, mortgage holders, etc.) This information doesn't match the information you reported on your tax return.

Use the table to compare the data the IRS received from others to the information you reported on your tax return to understand where the difference(s) occurred. To assist you in reviewing your income amounts, the table may include both reported and unreported amounts.

Taxable Wages					
Received from	Address	Account Information	Shown on return	Reported by others	Difference
		SSN	\$0	\$136,668	\$136,668
		Form W-2			

Received from	Address	Account Information	Shown on return	Reported by others	Difference
		SSN	\$0	\$24,808	\$24,808
		Form W-2			

CP 2000- Overview

We are proposing changes to your 2018 Form 1040 tax return. This is not a bill.

Proposed amount due: \$28,870

We received information from third parties such as employers or financial institutions that doesn't match the information you reported on your tax return. This notice:

- Proposes a change to tax and/or payments and credits (such as federal income tax withheld, earned income credit, etc.) that you originally reported.
- Provides you with an opportunity to agree or disagree with the proposed changes.

If our information is correct, you will owe \$28,870 (including interest), which you need to pay by January 20, 2021.

Summary of proposed changes

Tax you owe	\$22,326
Payments	\$0
Substantial tax understatement penalty	\$4,465
Interest	\$2,079
Proposed amount due by January 20, 2021	\$28,870

Reminder: This is not a bill. We haven't charged the proposed amount due.

CP 2000- Overview

SSN
Form 1099-R
Distrib CD 81

Changes to your 2018 tax return

Your income and deductions	Shown on return	As corrected by IRS	Difference
Retirement income taxable	\$1,142	\$46,141	\$44,999
Income net difference			\$44,999
Change to taxable income			\$44,999
Your tax computations	Shown on return	As corrected by IRS	Difference
Taxable income, Form 1040, line 10	\$390,928	\$435,927	\$44,999
Tax, Form 1040, line 11	\$88,386	\$103,848	\$15,462
Child tax credit/credit for other dependents, Form 1020, line 12a	\$2,250	\$0	- \$2,250
Other credits, Schedule 3, line 54	\$14,820	\$14,820	\$0
Tax on qualified plans	\$0	\$4,614	\$4,614
Net investment income tax, Schedule 4, line 62b	\$193	\$193	\$0
Total tax, Form 1040, line 15	\$71,509	\$93,835	\$22,326
Tax you owe *1			\$22,326
Payments	Shown on return	As corrected by IRS	Difference
Income tax withheld, Form 1040, line 16	\$21,905	\$21,905	\$0
Total payments			\$0

(*1) Decreases to credits result in an increase to tax.

Explanation of changes to your 2018 Form 1040

This section tells you specifically what income information the IRS received about you from others (including your employers, banks, mortgage holders, etc.) This information doesn't match the information you reported on your tax return.

Use the table to compare the data the IRS received from others to the information you reported on your tax return to understand where the difference(s) occurred. To assist you in reviewing your income amounts, the table may include both reported and unreported amounts.

Retirement Income Taxable

Received from	Address	Account Information	Shown on return	Reported by others	Difference
			\$1,142	\$46,141	\$44,999

CP 2501 vs CP2000

BOTH

- Notices sent due to discrepancies with taxpayer's return and what was reported by 3rd parties
- Proposing assessments – no actual tax liability yet
- Identifies the information return(s) that caused the discrepancy
- Same initial procedures if you agree or disagree with proposed changes

CP2501

- Typically sent for larger assessments (*approx. 100K*)

CP2000

- Gives detailed overview of proposed changes to income, deductions, tax and payments.

AUR Program - Responding to Notices

If you **agree** with the total assessment

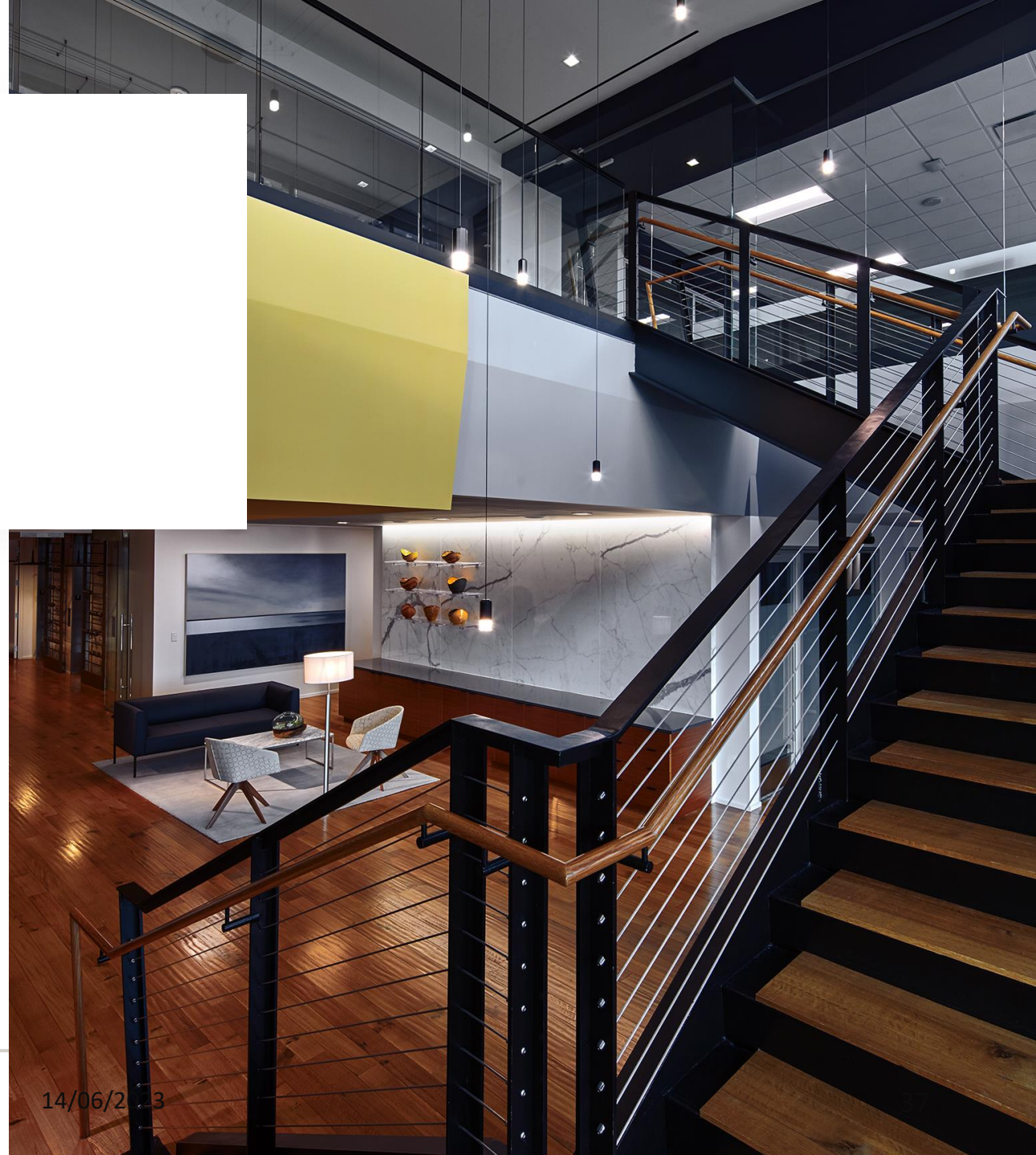
- Sign response form and pay assessment

If you **don't agree** with any of the assessment

- Don't file an amended return
- Do report what you do and don't agree with
- Do include CORRECTED forms if necessary
- Do include documentation supporting your position



AUR Program – CP 3219A



The Notice 3219A

Notice of Deficiency (AUR Cases)

Explanation of Notice of Deficiency – “90-day letter”

Notice CP3219A Explanation

Responses to Notice 3219A – RECON and Tax Court

Understanding the Notice CP3219A (Notice of Deficiency)


- If the IRS fails to receive a Notice CP 2000 response or if the response provided is inadequate, it will then issue **Notice 3219A**
- Also known as a **Notice of Deficiency** or a **90-Day Letter**, Notice 3219A is the IRS's procedural method of moving the case to the point where it can **assess the proposed tax change**
- Although Notice 3219A provides a 90-day period to file a petition with the Tax Court to litigate the issue, taking this expensive route to dispute the matter is usually not necessary, as the **AUR has a formal program to reconsider these cases**

Automated Underreporter Program (AUR) - CP3219A

Legally required before IRS can formally assess proposed tax unless taxpayer agrees to assessment

- Ensures the taxpayer is formally notified of the intention of IRS to assess a tax deficiency
- Informs the taxpayer of the opportunity and right to petition the Tax Court to dispute the proposed adjustments

Automated Underreporter Program (AUR) - CP3219A



Department of the Treasury
Internal Revenue Service
310 LOWELL ST
ANDOVER MA 01810-4544

Notice CP3219A
Tax year 2019
Notice date January 3, 2022
Social Security number [REDACTED]
AUR control number [REDACTED]
To contact us Phone 1-800-829-8310
Fax 1-877-477-9485
Last date to petition Tax Court April 4, 2022
Page 1 of 10

Notice of Deficiency

Proposed increase in tax and notice of your right to challenge

We determined there is a deficiency (increase) in your 2019 income tax based on information we received from third parties (such as employers or financial institutions) that doesn't match the information you reported on your tax return. See below for an explanation of how we calculated this increase. This letter is your NOTICE OF DEFICIENCY, as required by law.

Summary of proposed changes	
Increase in tax (deficiency)	\$94,737
Substantial tax understatement penalty	\$18,947

If you disagree:
You have the right to challenge this determination in U.S. Tax Court. If you choose to do so, you must file your petition with the Tax Court by April 4, 2022. This date can't be extended. See below for details about how and where to file a petition.


If you agree:
You can pay now or receive a bill. See the section below titled "If you agree with the proposed changes, you can pay now or receive a bill."

You have the right to petition the Tax Court

You have the right to challenge our deficiency determination, including penalties, before making any payment by filing a petition with the U.S. Tax Court. You must file your petition within **90 days** (or **150 days** if the notice is addressed to a person outside of the United States) from the date of this letter, which is **April 4, 2022**. The Tax Court can't consider your case if you file the petition late. If you decide to file a petition, send it to:

United States Tax Court
400 Second Street, NW
Washington, DC 20217
Phone: (202) 521-0700

Continued on back...



Notice CP3219A
Tax year 2019
Notice date January 3, 2022
Social Security number [REDACTED]
Page 5 of 10

Changes to your 2019 tax return

Your tax computations	Shown on return	As corrected by IRS	Difference
Taxable income, Form 1040, line 11b	\$294,151	\$538,400	\$244,249
Tax, Form 1040, line 12b	\$78,145	\$164,194	\$86,049
Self-Employment tax, Schedule 2, line 4	\$2,810	\$9,440	\$6,630
Additional Medicare tax, Schedule 2, line 8a	\$875	\$2,933	\$2,058
Total tax, Form 1040, line 16	\$81,830	\$176,567	\$94,737
Tax you owe			\$94,737

Payments	Shown on return	As corrected by IRS	Difference
Income tax withheld, Form 1040, line 17	\$41,536	\$41,536	\$0
Total payments			\$0

Explanation of changes to your 2019 Form 1040

This section tells you specifically what income information the IRS received about you from others (including your employers, banks, mortgage holders, etc.). This information doesn't match the information you reported on your tax return.

Use the table to compare the data the IRS received from others to the information you reported on your tax return to understand where the difference(s) occurred. To assist you in reviewing your income amounts, the table may include both reported and unreported amounts.

Payment Card/Third Party						
Trans	Received from	Address	Account information	Shown on return	Reported by others	Difference
				\$0	\$247,564	\$247,564

Form 1099-K

Detailed information
This notice reflects an adjustment to your gross income based on taxable proceeds from sales, exchanges, or other dispositions of virtual currency reported to us on information returns filed by third parties. For more information visit <https://www.irs.gov/businesses/small-businesses-self-employed/virtual-currencies>.

Payment card and third-party network transactions
You received Form 1099-K, Payment Card and Third Party Network Transactions, because you accepted merchant cards for payments, or because you received payments through a third-party network. The amount included on this notice for Form 1099-K reflects the gross reportable transaction amount and not the taxable amount of merchant card and third-party network payments. The taxable amount from Form 1099-K should be reported on your Form 1040 Schedule C, Schedule E or Schedule F.

Misidentified income
If any of the income shown on this notice isn't yours, send us the name, address, and taxpayer identification number of the person who received the income. To prevent future incorrect reporting to the IRS, notify the payer to adjust their records to show the correct name and taxpayer identification number.

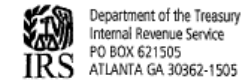
Continued on back...

Automated Underreporter Program (AUR) - Tax Court Petition

Why file a Tax Petition?

- **Time**
- **Preserving Appeals Rights**
 - Typically, IRS will allow us to engage with Appeals to settle prior to trial
- **To File or Not to File**
 - Legal grounds
 - Proposed assessment

Notice CP2005 - *What Success Looks Like*



[Redacted]	
Notice	CP2005
Tax year	2018
Notice date	August 30, 2021
Social security number	[Redacted]
AUR control number	[Redacted]
To contact us	Phone 1-800-829-8310 Fax 1-877-477-0967
Page 1 of 1	

Your 2018 Form 1040 inquiry is closed
Amount due: \$0.00

Thank you for your response to the notice we sent to you about your 2018 (Form 1040) taxes. We're pleased to tell you that the information you provided resolved the tax issue in question and that our inquiry is now closed.

What you need to do

- If you receive other notices regarding this matter, please disregard them.
- If the IRS sends you any notice of tax you owe not related to this matter, please read it carefully, and take the necessary steps to resolve the issue.

This wasn't an audit. Your return may be examined in the future. Please keep this notice and your documentation in a secure place with your other important documents.

Next steps

- If you sent us a payment based on the proposed changes, you'll receive a refund check within 4-6 weeks as long as you don't owe other tax or debts we're required to collect.
- If you filed a petition with the U.S. Tax Court, the Office of Chief Counsel will contact you regarding the final closing of your case.

Additional information

- Visit www.irs.gov/cp2005.
- For tax forms, instructions, and publications, visit www.irs.gov or call 1-800-TAX-FORM (1-800-829-3676).
- Keep this notice for your records.

If you need assistance, please don't hesitate to contact us.

Intro to State Audits

Types of State Tax Audits

- Corporate Income/Franchise Tax
- Sales and Use Tax
- Payroll/Withholding Tax
- Property Tax

Local Tax Audits

- Business/Occupation License Tax
- Property Taxes
- Local Sales and Use Tax

Intro to State Audits

General Audit Flow

- Information request from state (IDR)
- Gather and provide requested documents
- Auditor provides initial workpapers/amount due
- Opportunity to informally dispute findings or provide documentation
- Notice of Proposed Assessment/Appeal
- Negotiate settlement if applicable
- Final Assessment/Appeal

Beginning of Audit

- Determine degree to which audit will be adversarial versus collaborative
- Collaborative approach usually better for obtaining information about auditor's positions and motivations
- Easier to establish facts relied upon by taxpayer
- Harder to change facts or issues as audit progresses up the chain of formality

General Principles

- Two general strategies: adversarial versus collaborative
- Get to know your auditor/DOR – Is this a “friendly” audit
- Communications with auditor are valuable
- Increased insight into auditor’s goals and values
- The further along you go, flexibility and communication decrease;
Try to resolve issues early
- Know the Appeals Procedures, Each State is different
- What are your deadlines and where do you file?
- Who can you negotiate with?
- If litigation is an expected outcome, seek legal counsel earlier rather than later to set up issues for appeal

Dealing with Waivers/Extensions of Statute of Limitations

- Be aware of statute of limitations on audits and special extenders in case of federal audit changes or refund claims
- My general recommendation is to sign waivers the first time; otherwise state may resort to jeopardy assessment
- Can use potential refusal as club to curb aggressive auditor

Appealing Audit Findings & State Notices of Assessment

- Immediately assign responsibility for response
- Determine response date and calendar with multiple redundancy
- Determine minimum requirements for protest or appeal
- Determine if special form must be used
- Determine protest address; may be different than audit correspondence
- Determine exhibits/establishment of factual record including use of sworn affidavits

Appealing Audit Findings

Intermediate Option Before Assessment Becomes Final


- Conference or Reconsideration
- Authority to Settle? Last chance before a decision is made.

Formal Administrative Appeal

- Is this a taxpayer friendly option?
- Representative Requirements? Do we need Outside Counsel
- Trier of Fact Law or Both?

Trial Courts/ Litigation

Example 1: New York Sales Tax IDR




Department of
Taxation and Finance

Transaction Field Audit Bureau – Metro-NYC Regional Office
15 MetroTech Center, Audit Division/Unit, Floor 4, Brooklyn, NY 11201-3829

April 6, 2022

Audit case ID: [REDACTED]
Tax type: Sales & Use
Tax articles: 28 & 29
Audit period: [REDACTED]
Taxpayer ID: [REDACTED]



We selected your New York State sales and use tax records for an audit.

This letter is to inform you that we will examine your records. Review the attached Information Document Request (IDR).

What to expect

A Tax Department auditor, [REDACTED], will review your books and records to confirm you complied with all applicable tax laws. The auditor can answer any questions you may have about the audit process at any time.

To learn more, see the enclosed Publication 130-F, *The New York State Tax Audit—Your Rights and Responsibilities*, and Publication 900, *Important Information for Business Owners*.

What books and records you must provide

You must provide all documentation in auditable form and electronic form (if available) to support the returns as filed. The enclosed IDR describes the books and records that you must provide.

If your records are voluminous, discuss the IDR with the auditor. You can also discuss audit techniques, as described in Publication 130-F, at that time.

As the audit progresses, the auditor may ask you to provide records and information **in addition** to the items on the IDR. We may schedule a field visit to review the information requested.


Other taxes

During the audit, we may learn of issues regarding other kinds of taxes. If so, we may expand the scope of the audit and conduct a multi-tax audit or a separate tax audit and you must provide the auditors with records pertaining to these other taxes.

AU-1631.2

Continued on page 2

www.tax.ny.gov



New York State Department of Taxation and Finance
www.tax.ny.gov
Transaction Field Audit Bureau
Metro-NYC Regional Office
15 MetroTech Center, Audit Division/Unit, Floor 4, Brooklyn, NY 11201-3829
Phone: (347) 390-7316 Fax: (516) 435-8557

IDR
#01

Information Document Request

Taxpayer name: [REDACTED]	Audit years: [REDACTED]
Identification number: [REDACTED]	Case ID: [REDACTED]
Auditor: [REDACTED]	Article(s): 28 & 29
Requested of: [REDACTED]	Date requested: April 6, 2022

Date(s) Provided column completed by:

Your response is due by: 05/06/2022

Description of documents and information requested:	Name	Date(s) Provided
1. Sales tax returns, worksheets, and canceled checks showing taxes paid		
2. Federal income tax returns (Forms 1120, 1065, or 1040)		
3. New York State corporation tax returns		
4. General ledger		
5. Year-end trial balance		
6. Year-end financial statements		
7. General journal and closing entries		
8. Sales invoices		
9. All exemption documents supporting non-taxable sales, including: <ul style="list-style-type: none">• resale, exempt use, exempt organization, and capital improvement certificates• any other documentation necessary to prove non-taxable sales		
10. Chart of accounts		
11. Fixed asset purchase/sales invoices		
12. Expense purchase invoices		
13. Merchandise purchase invoices		
14. Bank statements, canceled checks, and deposit slips for all accounts		

Taxpayers are required to make all books and records available to the auditor, and they must remain available until the audit is complete, unless the auditor indicates that the records are no longer needed. An entry in the right column does not necessarily indicate that this portion of the request has been fully satisfied.

Example 3: Cobb County Property Tax; Text Messages to Accountant

Text 1 : Need Sales doc for FP Exemption ASAP. Send to [REDACTED]@cobbcounty.org

Text 2 I'm just letting you know. If we don't receive it, Freeport will be denied.

Text 3 Last notice before denial.

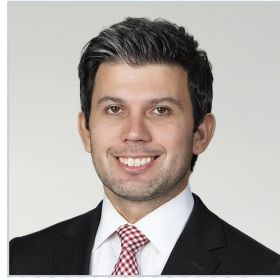


James Pickett

DIRECTOR

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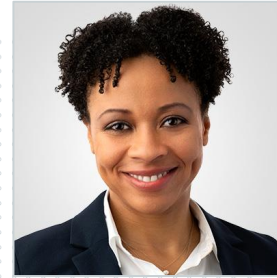


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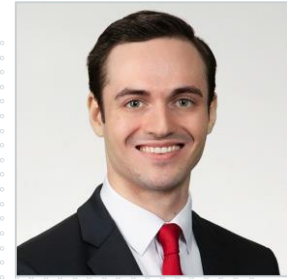


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- James Pickett, CPA
- Brittany Francis, EA

Admin Support

- Sana Holmes
Administrative Assistant
- Janet Myers
Tax Specialist

SALT Tax Controversy

- Peter Stathopoulos, Esq.
- Chris Stephens, Esq.



Thank You!



(770) 396-2200



www.btcpa.net



3300 Riverwood Pkwy #700, Atlanta, GA 30339

