



A Withholding Agent's Obligation: Getting it Right

Marvin Michelman, Deloitte Tax LLP
Terence Coppinger, Deloitte Tax LLP

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Agenda

- Policy and Procedure
- Audit Readiness
- Best Practices

Policy and Procedure

- Organizational policies and procedures are imperative to ensure proper execution of your responsibility as a withholding agent.
 - Integral part of an organizations risk management program
 - A dynamic process that considers relationships from start to finish
 - Identifies obligations and assigns responsibility
 - Ongoing process, not just a year end process
 - Reduces potential penalty and withholding exposure

Policy and Procedure

- Organizational policies and procedures...
 - Consider the end game first: Audit readiness (to be discussed later)
 - Avoid “Tunnel Vision”. Core procedures should be similar across business units
 - Operations, compliance and tax are not the whole picture.
 - Consult legal: AML/KYC, record retention and other non tax compliance concerns

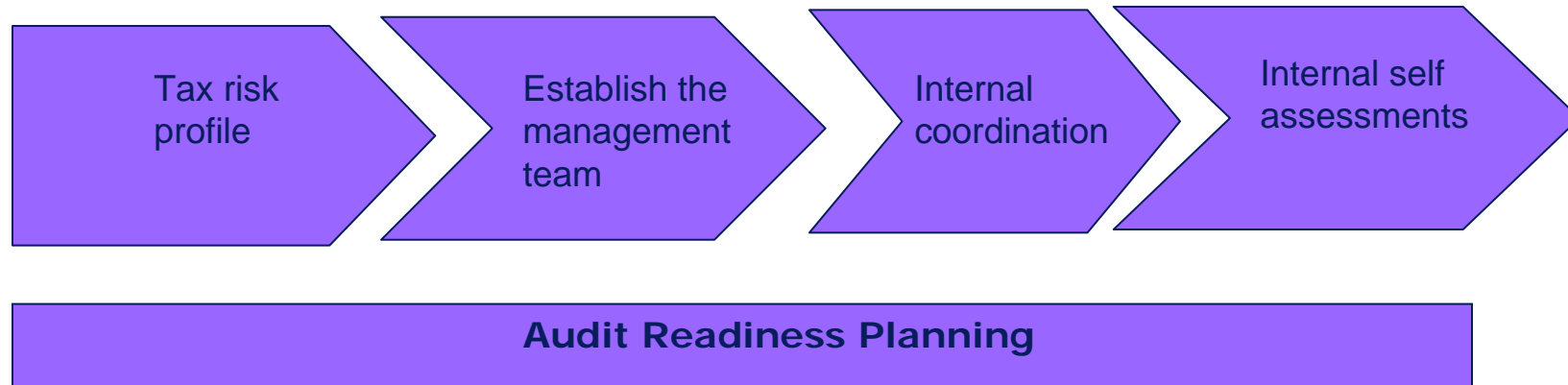
Audit Readiness

- “Getting it all right” means you must understand the end game: Being ready for an IRS examination.
- “Audit Readiness” is a business philosophy that adds minimal operations cost in comparison to the risk associated with poor process, procedure or failed monitoring.
- Being prepared for an examination is an essential part of an organization’s risk management process.

Audit Readiness

- Monitoring of an organizations audit readiness should be incorporated into an organizations internal audit program
- It is imperative to recognize that the pre-audit planning process is not exclusive to an organization's tax department

Audit Readiness



Develop Your Risk Profile

- Identify exposure areas
- Do not limit your focus to the withholding tax returns
- Identify all filing and documentation requirements to comply with IRS regulations
- Review all tax returns - Forms 1120, 1065, 941, W-2, 1099, 945...

Develop Your Risk Profile

- Review major transactions
- Do not limit your profile to retail or customer transactions
- Look at intercompany transactions...
- Prior audit history and prior adjustments
- IRS' hot issues: NRA withholding

Establish The Management Team

- Imperative to ensuring the most successful outcome of an examination
- Multi-disciplinary group from the various departments responsible for retrieval and presentation of return supporting information
- The Team should always be in place, regardless of your current audit status
- Team should be coordinated through the tax department or at a minimum, a single point of contact

Internal Coordination

- The current examination environment is complex and encompasses more than an organization's filed returns
- It is essential that an organization identify and coordinate all of the various departments, functions and business units that may have an impact on the outcome of an examination

Internal Coordination

- They all have a role...
 - Tax, Accounting and Legal
 - Human Resources/Accounts Payable
 - Operations/Customer Service
 - Information Technology
- Each departments role within the examination must be defined and responsibilities must be assigned

Internal Self-Assessment

- Provides a unique perspective of your overall tax risk position
- Advantages of performing self-assessment:
 - Remediation on your schedule, not the IRS'
 - Voluntary disclosures: better that you find it before the IRS
 - Meaningful participation in the audit planning process
 - Pre examination
 - Negotiating scope limitations
 - Developing exam milestones

Best Practices

- Although income taxes and tax shelters have dominated the IRS' public commentaries, there has been a renewed emphasis on “indirect taxes”
- Many organizations have substantial NOLs which require substantial income tax adjustments to generate tax revenue.

Best Practices

- “Indirect Taxes” such as backup withholding, employment taxes and NRA withholding are not affected by the NOL and general immediate tax revenue.

Best Practices

- The information reporting process goes beyond securing a Form W-8 or W-9
- The information reporting process should be considered an ongoing, year round process
- Policies and procedures should be considered a living document, subject to regular review and revision

Best Practices

- Responsibility and corresponding authority must be clearly established
 - Reserves and accruals at the business unit level
- Audit readiness should be a pre-transaction priority
- Do not wait for the examination notice or hope that the IRS will pass on withholding taxes
- Transact business with the assumption that you will be examined



Questions & Answers

Contact info

Marvin Michelman

212-436-4783

mmichelman@deloitte.com

Terence Coppinger

212-436-6412

tcoppinger@deloitte.com

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