

The IRS Resumes its Global High-Wealth Examination Program and Targets High Income Non-Filers

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The IRS has largely reopened for business on July 15, with an eye toward high net-worth individuals. The IRS recently announced it will restart its global high-wealth program by commencing several hundred new examinations of high net-worth individuals between July 15 and September 30. IRS audits of individual tax returns showing more than \$1 million of income have declined every year for the past 10 years. For the 2010 tax year, the IRS audited 8.77% of individual returns with income from \$1 - \$5 million, 14.82% of individual returns with \$5 - \$10 million, and 23.06% of individual returns with \$10 million or more. For the 2015 tax year, for which the statute of limitations is generally closed, the audit rate dropped to 2.39%, 4.39%, and 8.16%, respectively. (Internal Revenue Service Data Book, 2019; Table 17a; <https://www.irs.gov/pub/irs-pdf/p55b.pdf>). The IRS has also embarked on a separate initiative to contact high income individuals who have failed to file tax returns, and plans to pursue criminal investigations in some of these cases.

High-Net-Worth Audits

Conducted by the IRS's Large Business and International Division (LB&I), the global high-wealth audits will take a holistic approach, focusing not only on taxpayers' individual returns, but on their related entities, including passthrough entities and private foundations. This approach departs from the IRS's historic division-specific audit practice, which siloed separate divisions in auditing personal returns, private foundations, or retirement plans. Instead, the IRS's global high-wealth program will coordinate between the various IRS divisions at the earliest stages of the audit in order to determine the full financial make-up of a taxpayer's net worth and income stream.

This audit approach continues the IRS's recent trend of focusing on "heavy hitters," particularly those who employ various schemes to reduce tax. The IRS has long viewed with skepticism certain financial arrangements that utilize entities such as trusts, foundations, and passthroughs. Testifying in early July before the Senate Finance Committee, IRS Commissioner Charles Rettig emphasized the IRS's commitment to be aggressive in pursuing non-compliant taxpayers who are intentionally evading their tax obligations. The Commissioner has identified the global high-wealth program as one of the IRS enforcement initiatives.

IRS Outreach to High Income Non-Filers

Before the pandemic, the IRS announced that Revenue Officers would be contacting high income individuals who have not filed tax returns. Recently, IRS officials made clear that they intended to open criminal investigations in some of these cases. There are often innocent explanations for a taxpayer missing a single year, but when a pattern develops, and substantial tax is at issue, IRS Criminal Investigation agents may become involved. In cases where the taxpayer willfully failed to file, the taxpayer can be charged with criminal conduct, and if the taxpayer engaged in acts of fraud or concealment, felony charges of tax evasion are possible. The IRS's recent announcements indicate that high income non-filers will be a priority for examination, and where the facts warrant, potential criminal prosecution.

Implications

Judging by its prior iteration, taxpayers should expect the high-wealth audits to be thorough, invasive, and cumbersome. Rather than focusing on isolated issues on the tax returns, the IRS will be seeking information on all aspects of the taxpayer's wealth composition, typically involving robust document requests and information gathering. If instead, there is a pattern of unfiled returns and the IRS reaches out, the target of such an inquiry must be cautious of a potential criminal inquiry.

Hiring a specialist advisor in these scenarios from the outset is necessary. Attorneys in [Caplin & Drysdale's Tax Controversy](#) and [Private Client](#) groups have extensive experience in handling both criminal and civil examinations, including guiding taxpayers through high-wealth audits, sensitive fraud-related examinations, and criminal investigations. For more information please contact the attorneys below:

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