

## Where Are IRS Retirement Plan Audits Scheduled?

(This article was written by Michael Julianelle, Director of EP Examinations and is from the Summer, 2006 edition of "Retirement News for Employers")

Mr. Julianelle reiterates the IRS' policy regarding the preferred place for performing an EP examination.

"... I want to ensure that the EP agents' time is efficiently used by having access to source documents where they are stored. To accomplish this goal, I am encouraging EP agents to initially PLAN on performing the audit where the taxpayer's original books, records and source documents pertinent to the examination are located, which is generally at the taxpayer's place of business.

Refer to Regulation Section 301.7605-1(d), which provides, in part:

"A field examination will generally take place at the location where the taxpayer's original books, records, and source documents pertinent to the examination are maintained. In the case of a sole proprietorship or taxpayer entity, this will usually be the taxpayer's principal place of business."

The regulation very clearly sets out what the policy is, but it is important to understand why the IRS has this policy and what I hope to accomplish by following this policy. I do not want to use our authority to insist on the place of audit simply for the sake of demonstrating that we can, especially as it appears Employee Plans has not taken a consistent position in the past. Sometimes there are valid reasons not to perform the audit at the taxpayer's place of business. **But, please note that we are not auditing the information entered onto the Form 5500, we are auditing the operation of the plan.**

By performing the audit at the taxpayer's place of business, the books, records and source documents are more readily available, and this should lessen both the number of document requests and the added time these requests require. For example, Forms W-2, 940 and 941; payroll records; personnel files and the entity's income tax return are all examples of documents and records that would not normally be stored at a pension professional's place of business. A review of these and other records often leads to questions that require additional records that are at the taxpayer's place of business.

Another goal for conducting the audit at the taxpayer's place of business is to provide an opportunity for agents to familiarize themselves with the business operations by inspecting the premises and interviewing the taxpayer. Experience has shown that pension professionals are extremely knowledgeable regarding the plan's operation, but are not as well-versed in how the taxpayer conducts business. Without dealing with someone from the business who knows about its daily operations, our EP agents cannot resolve their questions. In addition, unless an interview with the taxpayer has been pre-arranged, the representative's lack of knowledge significantly diminishes

the value of the initial interview.

Additionally, agents need to evaluate the internal controls that are in place for plan and business operations. Without having access to someone who works in the taxpayer's location, it is difficult for the agent to evaluate whether the census information provided to the pension professional is accurate. For example, does the office manager fully understand how the plan should work, including entry dates, includable compensation, related businesses that could have an impact on various operational tests, etc.? If not, the information provided to the pension professional may be flawed.

It is for these reasons that my agents have been instructed to initially plan on performing the audit at the taxpayer's place of business. Both agents and managers will use appropriate business and professional judgment in determining where and when the audit will take place.

However, with respect to certain businesses, especially small businesses, I realize there may be valid reasons for not holding the examination at the taxpayer's principal place of business. I am particularly sensitive to situations where:

- 1) The agent's presence would disrupt the business operations.
- 2) There is a lack of office space to perform the audit.

If it makes better business sense to conduct the examination at a location other than the taxpayer's place of business (for example, if the agent's presence would disrupt the business operations), then the taxpayer or their authorized representative may submit a request outlining the reasons. If this is approved, the agent will request an opportunity to conduct a walk-through of the business premises and an opportunity to direct questions to the taxpayer to resolve questions regarding business operations.

In conclusion, I expect my agents to utilize their professional judgment in determining when it is appropriate to deviate from the normal policy of conduction audits at the taxpayer's place of business. I am confident that my agents and their managers, with your input, will use appropriate business and professional judgment in determining where and when the audit will take place and when it is appropriate to request a walk-through of the business premises."