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Tax Regs in Plain English

IRS Restructuring and Reform Act of 1998

3417 - Prohibition on IRS Contact of 3rd Parties Without Prior Notice

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Section 3417

A. Provision covered: RRA § 3417 "Notice of Contact with Third Parties."

B. Background: Under prior law, Service employees could contact persons other than the taxpayer under investigation to obtain information relating to either the determination or collection of tax. The taxpayer would not necessarily be informed about who the Service had contacted. Congress intended that taxpayers know who the Service has been in contact with regarding their tax liabilities.

C. Changes: The new law imposes three obligations upon the Service. First, the Service must give taxpayers a general warning at the beginning of the examination and collection process that the Service might contact third parties about the taxpayer's tax liabilities. Second, the Service must keep track of the third parties who are contacted. Third, the Service must provide that information periodically to the taxpayer as well as be prepared to release it whenever the taxpayer may ask. The Service does not have to release the information taxpayers if the contacts are made in the course of a criminal investigation or if the Service either determines that releasing the information would jeopardize the collection or assessment of the liability or determines that such release would subject the third parties to reprisals.

D. Impact: The Service will have to develop procedures and policies to implement this

provision. First, the Service will have to define what constitutes a "contact." Second, the Service needs to figure out how to keep contact lists throughout the examination process and collection process as taxpayers' accounts may be handled by and transferred between various functions. Third, the Service must give taxpayers guidance on how to request the list of contacts and on how often taxpayers may make such requests. Fourth, the Service must decide at what points in time does the "periodically provide" provision require taxpayers to be provided with a list of contacts. Fifth, the Service must decide how to delegate the authority to make the jeopardy/reprisal determinations.

E. Necessary Actions

1. Institutional Actions.

- . Provide guidance to employees and the public of new requirements and procedures. Guidance might be provided through training, regulations, IRM provisions, Revenue Procedures, or publications.
- b. Delegate authority to make the jeopardy/reprisal determinations.

2. What Actions Are Now Mandatory.

Service employees must begin keeping records of third parties contacted during either the examination or collection process. Such records must be provided to taxpayers periodically and upon taxpayer request. This section does not otherwise impose any additional responsibilities or duties or prohibitions on Service employees.

3. What Actions Are Now Allowed.

This section does not allow Service employees to take any new or different actions in regards to the examination or collections of accounts.

F. Other Special Comments: None

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