



March 29, 2011

Mr. Chris Wagner
Commissioner
Small Business/Self-Employed Division
Internal Revenue Service
1111 Constitution Avenue, NW
Washington, DC 20224

RE: IRS Accounting Software Examination Program

Dear Commissioner Wagner:

This letter is a follow-up to conference calls the AICPA has had with the IRS Small Business/Self-Employed (SB/SE) Division regarding its roll-out of a program to request the QuickBooks or Peachtree file (hereinafter, accounting software file) from certain small business taxpayers under examination. We appreciated the opportunity to review the details about the program during these earlier calls.

Since our previous conversations with the Service, we have received a number of inquiries from CPA members about how to handle an IRS Revenue Agent's request for the accounting software file, especially when the software file contains data involving more years than the one or two years under examination, and that the file may contain other data that could be considered private, confidential, and beyond the scope of the pertinent information for the audit. The accounting community has been working with the software vendors to be able to produce electronic files that include only the necessary information for the audit. Unfortunately, we are hearing that commercially available accounting software does not make it easy for small business persons to segregate the data between data that is responsive and relevant to an IRS examination and data that is not.

We understand that the IRS would prefer to receive data in electronic format as such format provides the Service with an ability to analyze data (related to a tax return) more quickly through computer analysis; and helps speed up the examination process. Nevertheless, we believe that reasonable safeguards should be available to protect small business taxpayers from turning over more data in an electronic format than is necessary for the IRS to perform an examination.

When the IRS's small business accounting software examination program was initially rolled-out, a number of persons compared the small business software program to the procedures the Large Business & International Division has in place with respect to requests for the general ledger and subsidiary files of a large taxpayer in electronic format. We do *not* view SB/SE's accounting software examination program as being comparable to LB&I's program. Specifically, the large taxpayer undergoing an IRS

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examination is routinely represented by tax professionals; and the data being turned over in electronic format does not contain extraneous information unrelated to the LB&I examination involved. By contrast, because the small business taxpayer often maintains his own accounting software file and is not a trained bookkeeper or accountant, the data in the software file is not necessarily directly relevant to the IRS examination.

It is our understanding that the Service is taking the position that an IRS Revenue Agent has the right to request a taxpayer's software file because the file is within the definition of "records" for purposes of Internal Revenue Code section 6001. However, as we state above, the software file contains more than just the books and records applicable to the IRS examination. The software file routinely contains both tax related and non-tax related information, as well as information that may not be relevant to the tax years at issue or to the issues under audit. For example, the accounting software file might contain a taxpayer's client or customer list. In the case of an attorney or someone in the medical profession, it may contain information clearly considered confidential under the law.

Once the software file of a small business taxpayer is requested by the IRS for examination purposes, the AICPA believes the taxpayer should have the right to "redact" the software file and turn over only the data that is responsive and relevant to the examination – but no more.

The AICPA would like to begin a dialogue with the IRS on ways small business taxpayers might provide the Service with the necessary data in electronic format (from the software file) while providing them appropriate safeguards. For purposes of continuing our discussions about the Service's accounting software examination program, please feel free to call me at (401) 831-0200, or patt@pgco.com; Danny Snow, chair of the IRS Practice and Procedures Committee at (901) 685-5575, or dsnow@tdplc.com; or Benson S. Goldstein, AICPA Senior Technical Manager, at (202) 434-9279, or bgoldstein@aicpa.org.

Sincerely,

A handwritten signature in cursive script that reads "Patricia A. Thompson". The signature is written in black ink and is contained within a thin black rectangular border.

Patricia A. Thompson, CPA
Chair, Tax Executive Committee