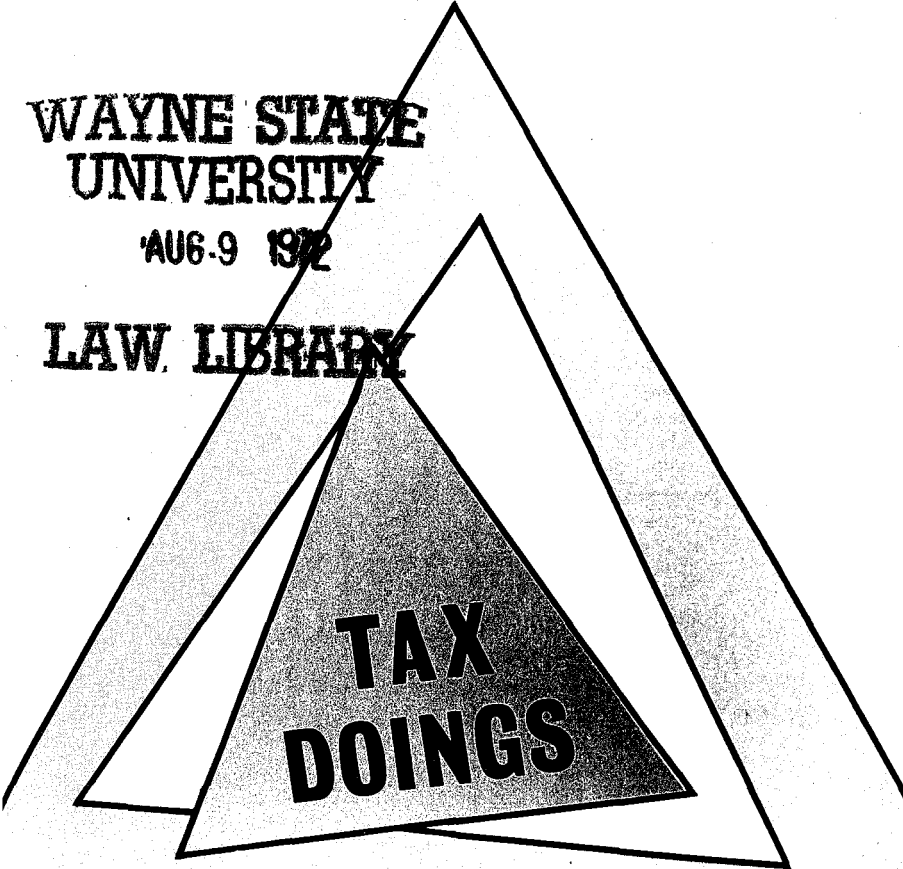


**WAYNE STATE
UNIVERSITY**

AUG. 9 1972

LAW LIBRARY



**TAX
DOINGS**

**PUBLISHED BY THE STATE BAR OF
MICHIGAN FOR DISTRIBUTION TO
MEMBERS OF THE TAXATION SECTION**

JUNE 1972 ISSUE

TAX DOINGS

EDITOR I. John Snider II

Statements, opinions and comments appearing herein are those of the editors or contributors and not necessarily those of the Association or Section.

TAXATION SECTION COUNCIL and LIAISON MEMBERS

James E. Beall
William H. Culver
E. James Gamble
J. Bruce Donaldson
Joseph D. Hartwig
Miles Jaffe
Maurice B. Townsend, Jr.
Jack E. Mitchell
J. Lee Murphy

OFFICERS

Chairman Calvert Thomas
Vice Chairman
 Benjamin O. Schwendener, Jr.
Secretary and Treasurer
 John C. Siegesmund, Jr.

IN THIS ISSUE

- I. LETTER FROM COMMISSIONER GOODMAN
- II. MINUTES OF MEETING BETWEEN INTERNAL REVENUE SERVICE OFFICIALS AND THE BAR ASSOCIATION LIAISON GROUP FOR THE CENTRAL REGION, INTERNAL REVENUE SERVICE, HELD NOVEMBER 10, 1971 AT LOUISVILLE, KENTUCKY

I. LETTER FROM COMMISSIONER GOODMAN

STATE OF MICHIGAN
DEPARTMENT OF TREASURY
REVENUE DIVISION
TREASURY BUILDING, LANSING, MICHIGAN 48922

Michigan State Bar Association:

We have received numerous inquiries concerning the due date and treatment for Michigan Income Tax purposes of the 1971 Individual Return using the 60-day automatic Federal extension.

Individuals using the 60-day automatic Federal extension also have an extension for their 1971 State return until August 17, 1972. When filing the return, a copy of Federal Form 4868 (Application for Automatic Extension of Time to File U.S. Individual Income Tax Return) must be attached to their State return. Otherwise, tax credits for City Income and property tax credit will be disallowed and late filing penalty will apply.

Your cooperation in arranging for a publication of this information will be appreciated.

Very truly yours,
Sydney D. Goodman
Revenue Commissioner

II. MINUTES OF MEETING BETWEEN INTERNAL REVENUE SERVICE OFFICIALS AND THE BAR ASSOCIATION LIAISON GROUP FOR THE CENTRAL REGION, INTERNAL REVENUE SERVICE, HELD NOVEMBER 10, 1971, AT LOUISVILLE, KENTUCKY

INTRODUCTORY REMARKS

Mr. Robert E. Johnson, Bar Chairman, welcomed the participants and announced that Mr. I. John Snider, II of Michigan State Bar Association, had been selected Chairman for next year. Mr. Charles G. Keebler, Regional Commissioner, indicated his feeling that the meeting should consist of a candid exchange of "What we in IRS do that concerns you and what you as taxpayers' representatives do that concerns us."

Mr. Clarence E. Price, Regional Counsel, expressed agreement with Mr. Keebler's concept and introduced K. Martin Worthy, Chief Counsel (since resigned). Mr. Worthy stated that this was the third Regional Bar Liaison Meeting he had attended and conveyed his favorable reaction to the program in the Southeast Region where they have a system providing for exchange of information regarding improper practices of IRS personnel and taxpayers' representatives. In closing his introductory remarks, Mr. Worthy expressed his pleasure at the opportunity to attend the meeting.

I. ECONOMIC STABILIZATION PROGRAM

Mr. Keebler introduced Mr. Edgar H. Hughson, ARC-Stabilization, who outlined the Economic Stabilization Program—Organization, Structure, and Procedures. With respect to requests for exceptions and exemptions, technical inquiries, etc., Mr. Hughson stated that these should be submitted to District Headquarters Offices and local Service & Compliance Centers. Any technical inquiries that cannot be answered at the District level will be forwarded to the office of the ARC-Stabilization, and, if necessary to the National Office for resolution. Under a nationwide facsimile network system, material is submitted to the National Office and received from the National Office at the rate of six minutes per page.

Mr. Hughson emphasized that Phase II, in general, is a control on profit margins.

In answer to a question, Mr. Hughson indicated that administrative appeals on particular cases are under the jurisdiction of the District Director, and that Appellate Conferees have been designated to handle the more difficult cases—also under the District Director's jurisdiction. In this connection, Economic Stabilization Program Publication S-2, 12/71, was distributed, at which time Mr. Hughson called attention to the material set out on page five, which must be complied with before an appeal will be heard.

Mr. Worthy indicated that, while written requests for rulings are not available to the public, there are two published sources available consisting of (1) published rulings in the Federal Register, and (2) a question and answer series prepared in Chief Counsel's Office.

Mr. Worthy expressed his belief that the Stabilization Program will have very little effect on regular Internal Revenue Service audits because, while other agencies will be reducing their budgeted programs, IRS has been permitted to retain its budgeted program calling for about 5% increased hiring.

II. TRANSCRIPTS OF ACCOUNT FROM SERVICE CENTER

Mr. Wayne Kegerreis, Assistant Regional Commissioner-ACTS,

stated that computer transcripts are for In-Service use only. He also stated that the Service Center will provide a transcript in understandable presentation upon request for a Statement of Account.

Mr. Leatherman related experiences, and other bar representatives indicated similar experiences of taxpayers receiving notification of over-assessments being applied against deficiency for a different year where deficiency was previously paid. Mr. Wilkins, Chief, Louisville Appellate Office, and other IRS representatives indicated that this may occur when it is necessary to resort to telephone assessment for a deficiency year due to early statute expiration date. This entails a manual assessment which may be followed by computerized assessment activity for all years—resulting, in effect, duplicate assessment activity. Solution is to extend statute of limitations enabling all years to be processed by computer.

III. A. POSSIBILITY OF COORDINATING SETTLEMENT COMPUTATION—TAX AND INTEREST—TO ENABLE ATTORNEY TO GIVE CLIENT FINAL SETTLEMENT AMOUNT AT THE TIME AGREEMENT IS ENTERED INTO

B. POSSIBILITY OF COORDINATING PROCEDURE WHEREBY COLLECTION AGREEMENT CAN BE ENTERED INTO AT THE TIME SETTLEMENT IS CONSUMMATED

After briefly discussing these topics, it was decided that a committee should be appointed to look into the feasibility thereof. The Bar Liaison members of the committee will be Robert E. Johnson and Mark Berliant. IRS members will consist of representatives from offices of ARC-Appellate, ARC-ACTS, Service Center, ARC-Audit, and Regional Counsel.

IV. SCHEDULE OF TRANSFER OF DUTIES TO NEW SERVICE CENTERS

Mr. Patrick Ruttle, Director, Cincinnati Service Center, referred to and distributed copies of a letter dated October 12, 1971 sent to all practitioners, which reflected the change in processing of returns with respect to new Service Centers. Confined to the Central Region, changes from the Cincinnati to the Memphis Service Center is planned as follows:

Taxpayer's IRS District	Type of Tax and Effective Change Date
Louisville	Individual 1-1-72; Business 7-1-72
Indianapolis	Individual 1-1-73. Business 7-1-72
Parkersburg	Individual 1-1-73; Business 7-1-72

Reference to "Individual" and "Business" means the following forms which are processed through the ADP system:

Individual Returns

Form 1040-U.S. Individual Income Tax Return	Form 1040C-U.S. Departing Alien Income Tax Return
Form 1040SS-U.S. Self Employment Tax Return	Form 1040ES-U.S. Declaration of Estimated Income Tax
Form 1040PR-(Spanish)-U.S. Self Employment Tax Return	Form 1040X-Amend. U.S. Individual Return

Business Returns

Form 1120-U.S. Corporation Income Tax Return	Form 941PR-Employer's Quarterly Federal Tax Return
Form 1120-U.S. Small Business Corporation Income Tax Return	Form 941SS-Employer's Quarterly Federal Tax Return
Form CT-1-Employer's Quarterly Railroad Retirement Tax Return	Form 942-Employer's Quarterly Tax Return for Household Employees (FICA)
Form 720-Quarterly Federal Excise Tax Return	Form 943-Employer's Annual Tax Return for Agricultural Employees (FICA)
Form 940-Employer's Annual Federal Unemployment Tax Return	Form 943PR-Employer's Quarterly Federal Tax Return (Span.)
Form 941-Employer's Quarterly Federal Tax Return	Form 1041-U.S. Fiduciary Income Tax Return
Form 941E-Employer's Quarterly Federal Tax Return, Non-FICA	Form 1065-U.S. Partnership Return of Income
	Form 941M-Employer's Monthly Federal Tax Return

V. NEW FILING REQUIREMENTS IN ESTATE AND GIFT TAX RETURNS

Mr. Abe Goldberg, Office of ARC-Audit, related the new requirements consisting of—

- Estate tax returns are now due nine months after the date of death instead of the prior fifteen months.
- Gift tax returns must now be filed quarterly. Gift tax returns are due on the fifteenth day of the second month from the end of the quarter in which the gift was made.
- The Estate tax return's format has been revised and should be used for all decedents dying after 12-31-70.

- d. The optional valuation date is now six months after date of death rather than former one-year date.
- e. Estate tax returns should be filed at the Service Center rather than with the District Director as was the former case.

Mr. Michael DeGuire, ARC-Audit, stated that under a recently initiated procedure, office auditors are examining certain small estate tax returns and emphasized that any such return will be assigned to a field agent if practitioner so requests.

VI. DISCHARGE OF EXECUTOR FROM PERSONAL LIABILITY—SECTION 2204

Section 2204 of the 1954 Internal Revenue Code, provides in part that the executor may make written application to the Director for determination of the estate tax and discharge from personal liability, and within one year from the date of the application the Service must notify the executor of the amount of the estate tax and, upon payment of that sum, the executor will be discharged from personal liability for the tax or any tax deficiency. In this connection, Mr. Goldberg stressed the importance of a complete estate tax return in every respect which enables the Service to respond to these applications expeditiously. While discharge from personal liability may be made before examination is complete, the Service prefers to complete the examination before giving notification of release.

This request should be a separate communication to the District Director and not incorporated with other data or information that is submitted. By doing so, the request is immediately identified and posted for proper procedure in accordance with the law. The Service receives many requests filed by an attorney. This is not a valid application because under Section 2204 the executor only can make the application.

A Bar representative indicated that a District office is not forwarding to legal representatives of estates release from personal liability—Form 7990. The ARC-Audit indicated the position that Form L-118, as provided by Rev. Proc. 70-10, satisfied the requirements of the statute, since said form and proof of payment of taxes constitutes evidence of personal discharge; however, he stated that Form 7990 will be furnished in response to any specific request for it.

VII. EXTENSION OF TIME FOR PAYMENT OF ESTATE TAXES WHERE ESTATE CONSISTS LARGELY OF INTEREST IN CLOSELY-HELD BUSINESS—SECTION 6166

Extension of time under this section is permitted when value of an interest in a closely held business (includable in estate) is (1) 35% of gross estate, or (2) 50% of value of taxable estate.

If extension is granted, payment of estate tax, subject to limitation, can be made in two or more (not exceeding ten) payments. Limitation with respect to the amounts paid in installments relates to that part of the tax due to the value of the closely held business. In other words, if 40% of the gross estate is in the closely held business, 40% of the tax can be paid in installments.

In making this application, the executor should set forth his computation of tax which he believes is applicable.

In this connection, the question was raised as to the criteria for requiring a bond as provided by Section 6165 with respect to "hardship" extensions granted under Section 6161. The Internal Revenue Service has not published any specific criteria as to bond requirements. Under the Estate Tax Regulations, the Director may require a bond if it is believed that the revenue may be in jeopardy, if the extension is granted. This is the general criteria followed in determining whether a bond should be required. It was brought out that the Service will always give proper consideration to the alleviation of hardship.

VIII. REQUEST BY TAXPAYERS FOR REFERRAL OF ISSUE TO NATIONAL OFFICE

Mr. DeGuire stated that during the course of an examination or District conference, the taxpayer may request that an issue be referred by the District to the National Office for technical advice. The basis for such requests must be either (1) a lack of uniformity as to the disposition of the issue, or (2) the issue is so unusual or complex as to warrant consideration by the National Office.

Mr. DeGuire emphasized the importance of requesting technical advice at an early date, particularly in view of the shortened audit examination cycle. He encouraged representatives to get together with the revenue agent at an early date and, if possible, not wait until the case is in District Conference.

In response, thereto, several Bar representatives related experiences of examining agent declining to discuss the issues until after issuance of a thirty-day letter.

Mr. DeGuire stated that the agent is required to discuss the issues with the representative prior to issuing a thirty-day letter whenever possible.

Mr. Keebler indicated that situations where an agent declines to discuss issues should be called to the attention of Chief, Audit Division, or District Director.

In this connection, Mr. DeGuire mentioned a recently issued Regional Commissioner's Memorandum calling for quality development

itioner. The type of case dictates what can and can't be made available to the practitioner. Thus it becomes a matter of deciding on a case by case basis. Mr. Price indicated that third party information is definitely not available. He expressed his desire to cooperate to the extent possible and asked the representatives to let him know when they felt his office was not cooperating.

XII. WHAT IS AVAILABLE TO THE OUTSIDE PRACTITIONER FROM THE RIRA SYSTEM

A list of RIRA issues and number of cases pending under issues are available for \$15.00 and \$78.00, respectively, per year and may be obtained by writing National Technical Information Service, U. S. Department of Commerce, Springfield, Virginia 22151.

Lists of decided and pending cases by issue are not available.

XIII. WHAT IS THE POLICY OF THE INTERNAL REVENUE SERVICE REGARDING INCONSISTENT POSITIONS IN ITS DETERMINATIONS

Mr. Lester Ponder stated that his concern in this area revolved primarily around "whipsaw" type situations, e.g., alimony and buyer and seller type cases.

Mr. Worthy indicated that a committee has been set up to study the problem. At this point, the practice to continue one side of the question until the other side comes to trial in different venue situations has not been changed. Mr. Ponder stated that this is an area that needs more attention and expressed the hope that the appointed committee will come up with a solution whereby these kinds of issues can be closed administratively.

XIV. CHANGES AND PROCEDURES IN HANDLING CRIMINAL CASES

Mr. Harold Holt, ARC-Intelligence, and Mr. Gerald Fuller, Assistant Regional Counsel, Enforcement, related that under the new procedure the District Director has been granted final review authority and decision responsibility with respect to whether prosecution cases should be referred to Regional Counsel. This has eliminated the former practice of holding a conference in the office of ARC-Intelligence, when requested by a principal or representative.

In lieu of the former review and conference work, the Assistant Regional Counsel's Office and consists of rendering legal and technical assistance program. Much of this program is conducted jointly with Regional Counsel's Office and consists of rendering legal and technical assistance during the developmental stage of investigations. The objectives under this pre-referral program are (1) to speed up the clos-

ing of cases with good criminal potential, while (2) eliminating the expenditure of investigative time and money on cases deemed inappropriate for criminal prosecution.

Some of the Bar representatives indicated a concern regarding lack of objectivity under this program and, particularly, where the same attorney in Regional Counsel's office performs the final review after previously giving legal assistance during the investigative stages of the same case. Mr. Price indicated that where possible the final review would not be assigned to the same attorney that had provided legal assistance, and emphasized that legal guidance is provided on pre-referral cases only when there are problems in case development. Mr. Worthy expressed the opinion that Regional Counsel review should not be considered as not objective even when the same attorney performs both legal assistance and final review services and emphasized that this program should result in (1) speed up of the case processing, (2) better development of case, and (3) abandoning cases having no potential at an early stage.