

Joel N. Crouch

Partner

Tel: (214) 749-2456

jcrouch@meadowscollier.com

PRACTICE AREAS

Income Tax Litigation

Estate and Gift Tax Litigation

White Collar and Government Regulatory Litigation

Commercial Litigation and Arbitration



Biography

Joel counsels and advises businesses, wealthy individuals and families about their most demanding tax planning, estate planning and IRS controversies. He often works with tax professionals and financial specialists to help develop solutions for their clients. Joel is a Partner in the firm and is Board Certified in Tax Law by the Texas Board of Legal Specialization.

Joel has been recognized as one of the best in his field by *Texas Monthly* and *Law and Politics* magazines by being named a Texas Super Lawyer from 2003 through 2022. He has also been named one of the Best Lawyers in Dallas by *D Magazine* for the years 2012-2021. Mr. Crouch has been recognized by *Best Lawyers in America*® in Tax Law for the years 2015-2022. *Best Lawyers in America*® recognized Mr. Crouch as "Lawyer of the Year" in Tax Law for Dallas/Ft. Worth in 2022.

Joel is a frequent speaker on procedural and substantive tax issues for legal and accounting professionals. Some of his topics include: Tax Shelter Defense, IRS Examinations, Appeals, Litigation and Collection Strategies, IRS Criminal Investigations, IRS Offshore Activities, IRS Focus on Tax Professionals, Employment Classification, IRS Penalties, and Litigation Partnership Tax Cases. He has also published various articles regarding the IRS and tax procedures.

Education

- University of Texas School of Law, J.D., 1988
- Southern Methodist University, B.A., 1985

Memberships

- American Bar Association, Taxation
 - Member, Court Procedure and Practice Committee
 - Member, Standards of Tax Practice Committee
 - Member, Civil and Criminal Penalties Committee
 - Member, Administrative Practice and Procedures Committee
- State Bar of Texas
 - Member, Section of Taxation



- The College of the State Bar of Texas
 - Member
- Dallas Bar Association
 - Lead Co-Chair, Bench Bar Conference Committee, 2021
 - Co-Vice Chair, Bench Bar Conference Committee, 2020
 - Member, Bench Bar Conference Committee, 2019, 2020
 - Tax Section Chair, 2018
 - Tax Section Vice Chair, 2017
 - Tax Section Treasurer, 2016
- Texas Federal Tax Institute
 - Board Member, 2015-2020
 - Planning Committee Member, Civil Tax Controversy Program
 - Marketing Committee
- Texas Bar Foundation
 - Life Fellow
- Dallas Bar Foundation
 - Secretary Treasury, 2022
 - Chair, Grants Committee, 2021
 - Trustee, 2020
 - Fellows Chair, 2019
 - Fellows Vice Chair, 2018
 - Fellows Secretary-Treasurer, 2017
 - Fellow
- Collin County Bar Association
 - Member
- Plano Symphony Orchestra
 - Board of Directors, Secretary and Treasurer
- St. Andrews United Methodist Church
 - Administrative Council - Chairman
 - Building Committee
- Willow Bend Home Owners Association
 - Board Member
 - Secretary

Honors & Awards

- The Best Lawyers in America © , 2022 Lawyer of the Year-Tax Law in Dallas/Ft. Worth
- The Best Lawyers in America © , 2015-2023, Tax Law
- 2013 Top Rated Lawyer in White Collar Criminal Defense Law by ALM as published in The American Lawyer, Corporate Counsel & The National Law Journal, October 2013
- Texas Super Lawyers-Tax as listed in Texas Super Lawyers magazine and Texas Monthly, 2003 through 2018 and 2020-2022, 2020 Texas Super Lawyers Top 100, Dallas/Ft. Worth
- Best Lawyers in Dallas, D Magazine, 2012-2022 (Tax: Litigation)

Experience

Representative Cases

Civil Tax Controversies Representation Matters

- Client in appeal to the U.S. Supreme Court regarding the IRS attempt to invoke a six year statute of limitations.
- Client in an appeal to the U.S. Fifth Circuit regarding the IRS attempt to impose a substantial penalty.
- Client in an appeal to the U.S. Fifth Circuit and successfully argued that the IRS cannot invoke a six year statute of limitations.
- Client in a successful challenge to the IRS' attempt to retroactively apply a Treasury regulation.
- Client in successfully resolving issues regarding unfiled payroll tax returns for multiple years.
- Numerous clients through the IRS Offshore Voluntary Disclosure initiatives and other voluntary disclosure programs.
- Family in challenge to IRS disallowance of tax benefits and prepared imposition of penalties.
- Estate in an IRS challenge to the value of interest in a closely-held business. Successfully settled case for significantly less than the IRS's proposed assessment.
- Client in IRS challenge to losses arising from investment in distressed assets.
- Attorney in a challenge to IRS summons for records related to attorney's client's offshore activities.
- Numerous clients in tax shelter examinations and civil litigation.
- Clients in IRS attempt to reclassify losses associated with horse and cattle activities as hobby losses under IRC sec. 183.
- Clients in IRS challenges to classification of independent contractors versus employees.
- Numerous tax professionals under investigation for alleged ethical and IRS Circular 230 violations.
- Large public company in an IRS challenge to deduction of expenses related to merger with competitor.
- Owner and closely-held business in IRS examination of issues related to change in accounting method.
- Client in IRS attempt to impose penalties during litigation of civil tax matter. Successfully convinced court that the government could not propose penalties.
- Client in connection with IRS challenge to losses arising from failed tender offer for a foreign publicly-traded company.
- Numerous estates in IRS challenges to the valuation of closely-held businesses and estate planning vehicles fractionalizing ownership and control.
- Numerous estates in IRS challenges to family limited partnerships involving IRC sec. 2703, 2704 and 2036 and other substance-over-form attacks.

White Collar and Criminal Tax Controversies Representation Matters

- CPA subject of an investigation by the Tax Inspector General's Office and negotiated a resolution involving no criminal charges.
- Numerous clients in making voluntary disclosures to the IRS regarding unfiled tax returns, substantiation tax issues and offshore activities to avoid criminal prosecution.
- Large National Corporation in investigation of potential environmental criminal violations. Convinced the government that no criminal charges should be brought.
- An attorney in an IRS investigation of failure to file tax returns.
- A hospital chain in a healthcare fraud investigation following the execution of search warrants based on allegations made by a qui tax relation.



- A real estate investor indicted for tax fraud associated with losses for investment in bank-related real estate. The client was acquitted on all counts.
- A banker indicted for allegedly failing to disclose relationship to borrowers who later defaulted on loan. The client was acquitted on all counts.
- Hired by client post-indictment in mail and wire fraud case and convinced the government to dismiss the indictment before trial.
- Successfully avoided criminal prosecution and civil fraud penalties for numerous taxpayers in civil IRS examinations and IRS administrative proceedings with high risk of civil fraud penalties, criminal prosecution or both.

Publications

- *"6 Keys to Avoiding Section 6701 Penalties"*, The Value Examiner, May/June 2006 Issue, National Association of Certified Valuation Analysts
- *"Take Two: IRS Voluntary Disclosures and The Offshore Disclosure Initiatives"*, April 2011 Issue of BarTabs published by the Collin County Bar Association
- *"Avoiding Criminal Tax Problems: Voluntary Disclosure"*, Originally published in Headnotes, Vol. 36, No. 5, May 1, 2011, page 9 (published monthly by the Dallas Bar Association)
- *"Is Three Times a Charm? The IRS Announces a Third Offshore Voluntary Disclosure Initiative"*, February 2012 Issue of BarTabs published by the Collin Country Bar Association
- Mr. Crouch was quoted in the *Tax Analysts* article, *"Kollsman Case Offers Cautionary Tale for Art Appraisals."*

Presentations

- November 3, 2022 - TXCPA Austin Annual Tax Conference
- October 21, 2022 - Texas Management Group (TMG) Conference (Day Two)
- October 4, 2022 - October 2022 1-Hour Webinar
- August 23, 2022 - 37th Annual Panhandle Chapter Tax Institute
- July 12, 2022 - July Meadows Collier Monthly Webinar
- June 7- 9, 2022 - 2022 Tax Alliance Conference
- May 19, 2022 - North American Petroleum Accounting Conference (NAPAC) 2022
- April 5, 2022 - April 2022 Meadows Collier 1 Hour Monthly Webinar
- February 2, 2022 - East Texas Estate Planning Council
- January 25, 2022 - Estate Planning Council of Central Texas
- January 11, 2022 - Meadows Collier January 2022 One-Hour Free Monthly Webinar
- November 16, 2021 - San Antonio Estate Planning Council Meeting
- September 23, 2021 - Greater Longview Estate Planning Council
- August 31, 2021 - Tips and Techniques for Dealing with the IRS Exam and Collection Divisions
- August 24, 2021 - 2021 Panhandle Chapter/TXCPA Tax Institute
- June 10, 2021 - 45th Annual Advanced Estate Planning & Probate Course
- June 9, 2021 - Tax Alliance Conference 2021
- May 27, 2021 - Clear Law Institute Webinar
- May 21, 2021 - North American Petroleum Accounting Conference (NAPAC)
- April 5, 2021 - April 2021 Dallas Bar Association Tax Section Meeting
- March 25, 2021 - TXCPA Dallas March 2021 CPE Session



- January 28 ,2021 - Tolling Tax Statutes of Limitations - Strafford Webinar
- January 22, 2021 - TXCPA Corpus Christi Chapter
- December 3, 2020 - UT Law CLE - 68th Annual Taxation Conference
- November 10, 2020 - Austin Chapter/TXCPA Virtual Annual Tax Conference
- July 31, 2020 - Fort Worth Chapter/TXCPA 36th Annual Tax Institute
- February 21, 2020 - Corpus Christi Chapter/TXCPA February Monthly Meeting
- February 7, 2020 - TXCPA Corpus Christi 62nd Annual Tax Conference
- January 29, 2020 - Joint Meeting - TXCPA Panhandle Chapter and the Amarillo Area Estate Planning Association

Archived Speeches

- November 15, 2019 - TXCPA Tax Institute - Dallas
- November 14, 2019 - TXCPA Tax Institute - San Antonio
- November 8, 2019 - 2019 TXCPA Austin Annual Tax Conference
- November 5, 2019 - 21st Annual Meadows Collier Tax Conference
- September 18, 2019 - Webinar - Clear Law Institute
- August 27, 2019 - 35th Annual Tax Institute sponsored by the Panhandle Chapter/TXCPA
- August 16, 2019 - TXCPA Advanced Estate Planning Conference
- July 25, 2019 - July 26, 2019 - Fort Worth Chapter/TSCPA Tax Institute 2019
- July 23, 2019 - AXA Advisors Annual CPE Event
- June 17, 2019 - Intermediate Estate Planning and Probate Course by the TexasBarCLE
- May 22, 2019 - Taxation and Estate Planning Update for Professionals
- May 14, 2019 - Taxation and Estate Planning Update for Professionals
- January 23, 2019 - Henry & Peters Seminar
- November 14, 2018 - AXA Advisors Lunch Seminar 2018
- November 9, 2018 - 2018 Austin CPA Chapter Annual Tax Conference
- November 2, 2018 - C12 3Ten Coalition Retreat
- September 25, 2018 - Metroplex Practice Management Group (MPMG)
- August 23, 2018 - 2018 Panhandle Chapter/TSCPA Tax Institute
- August 6, 2018 - Bloomberg Webinar
- August 3, 2018 - Fort Worth Chapter/TSCPA 2018 Tax Institute
- July 18, 2018 - Atlas Advisor Group Annual Conference
- June 6, 2018 - 34th Annual Texas Federal Tax Institute
- May 16, 2018 - The DBA Health Care Section
- May 15, 2018 - Texas Bank and Trust
- May 2, 2018 - Texas Bank and Trust
- April 3, 2018 - DBA Corporate Counsel Section - The Tax Cuts and Jobs Act
- March 21, 2018 - Federal Tax Workshop Co-Sponsored by the SBOT
- March 16, 2018 - DBA Friday Clinic -Belo
- March 6, 2018 - Clear Law Institute (Webinar)
- February 2, 2018 - Corpus Christi Chapter/TSCPA Annual Tax Conference
- January 31, 2018 - Merrill Lynch's The Maynard Group - Tax Cuts and Jobs Act Conference
- January 19, 2018 - American Academy of Attorney-CPAs 2018 Southwest Regional Education Conference
- December 8, 2017 - TSCPA CPE Expo- Houston



- December 5, 2017 - TSCPA CPE Expo- San Antonio
- November 30, 2017 - Speaking at TSCPA CPE Expo
- November 14, 2017 - Austin Chapter/TSCPA Tax Conference
- October 23, 2017 - Hein & Associates National Tax Meeting
- September 26, 2017 - Metroplex Practice Management Group (MPMG)
- September 12, 2017 - Strafford Webinar - Navigating the IRS Penalty Abatement Procedures for Foreign Information Reporting Noncompliance
- August 23, 2017 - Panhandle Chapter/TSCPA Tax Institute - Aug. 23, 2017
- August 3, 2017 - Fort Worth Chapter/TSCPA Tax Institute
- July 18, 2017 - ACPEN Webcast - Doing Business with the IRS: Overview of the IRS
- July 7, 2017 - The Knowledge Group Webinar
- June 23, 2017 - Texas Forum on International Tax Biannual Luncheon
- June 16, 2017 - CPE by the Sea on June 16, 2017
- June 14, 2017 - Texas Federal Tax Institute - June 14, 2017 in San Antonio, TX
- May 23, 2017 - Texas Bank and Trust Seminar
- May 19, 2017 - NAPAC
- May 12, 2017 - Dallas CPA Society Convergence - May 12, 2017
- May 9, 2017 - Texas Bank and Trust Seminar
- May 3, 2017 - Strafford Webinar on April 18, 2017
- April 27, 2017 - AICPA Family Office Group
- December 8, 2016 - TSCPA CPE Expo- San Antonio
- December 5, 2016 - TSCPA CPE Expo- Arlington
- December 2, 2016 - 2016 Tax Symposium- Shreveport, LA
- December 1, 2016 - TSCPA CPE Expo- Houston
- November 18, 2016 - New England IRS Representation Conference
- November 8, 2016 - Austin CPA Chapter Annual Tax Conference
- November 3, 2016 - Permian Basin Chapter/TSCPA CPE Expo
- October 25, 2016 - 18th Annual Meadows Collier Tax Conference
- October 21, 2016 - TSCPA Young and Emerging Professionals Conference
- September 26, 2016 - The Knowledge Group Webinar
- September 7, 2016 - Stafford Group
- August 25, 2016 - Panhandle Chapter/TSCPA Tax Institute
- August 5, 2016 - Forth Worth Chapter Tax Institute
- June 15, 2016 - CPE by the Sea
- June 6, 2016 - The Knowledge Group Webinar-Dallas
- May 27, 2016 - Dallas CPA Society 2016 Convergence Conference
- May 24, 2016 - Texas Bank & Trust Seminar- Longview
- May 20, 2016 - NAPAC Conference
- May 18, 2016 - ACPEN LLCs & Partnershp Update Broadcast
- May 17, 2016 - Texas Bank & Trust Seminar- Tyler
- May 13, 2016 - Corpus Christi Estate Planning Council Annual Seminar
- May 6, 2016 - Texas Association of CPAs
- April 19, 2016 - Dallas Area Paralegal Association Meeting
- March 6, 2016 - STEP- Fort Worth



- December 10, 2015 - TSCPA CPE Expo- Houston
- December 7, 2015 - TSCPA CPE Expo- San Antonio
- December 2, 2015 - TSCPA CPE Expo- Arlington
- November 16, 2015 - Austin Chapter/TSCPA Annual Tax Conference
- October 27, 2015 - Central Texas Chapter/TSCPA CPE Expo
- August 26, 2015 - "Judicial Update"
- August 7, 2015 - Ft. Worth Tax Institute
- May 19, 2015 - Texas Bank and Trust Seminar-Longview
- May 6, 2015 - Texas Bank and Trust Seminar- Tyler
- April 24, 2015 - First State Bank & Trust Seminar
- April 21, 2015 - AAA-CPA Speech
- December 4, 2014 - "Passive Activity and Hobby Loss Limitations: Withstanding an IRS Attack of Your Client's Outside Business Activities Under IRS Sections 469 and 183"
- November 17, 2014 - "Judicial Update"- Austin
- August 28, 2014 - "Foreign Asset Reporting Obligations to the IRS"
- August 27, 2014 - "What to Expect in 2014 from a Rapidly Changing IRS"
- August 15, 2014 - "What to Expect from a Rapidly Changing IRS in 2014"
- July 31, 2014 - "Judicial Update"- Fort Worth
- June 20, 2014 - "Circular 230"
- May 22, 2014 - "Recent Developments in Federal Income Taxation"
- May 19, 2014 - "Judicial Update"- Tyler
- May 15, 2014 - "Health Care Fraud"
- May 6, 2014 - "Health Care Fraud"
- April 25, 2014 - "Family Limited Partnerships"
- January 29, 2014 - "Self Employment Tax for LLCs and S Corps"
- January 24, 2014 - "Self Employment Tax Issues for LLCs and S Corps"
- December 17, 2013 - "What to Expect in 2014 From a Rapidly Changing IRS"
- December 10, 2013 - "What to Expect in 2014 From a Rapidly Changing IRS"
- October 30, 2013 - "Procedural Issues in Partnership Audits and Litigation, Return Preparer Penalties and Hot Litigation Topics"
- August 16, 2013 - "What to Expect from a Rapidly Changing IRS"
- August 2, 2013 - "Offers in Compromise: Is the IRS Really Becoming Kinder and Gentler?"
- July 11, 2013 - "Dysfunctional Family Limited Partnerships"
- July 8, 2013 - "Conservation and Facade Easements: Are They for Real or a Facade?"
- June 12, 2013 - "What We Can Expect from the IRS in 2013"
- May 29, 2013 - "What We Can Expect from the IRS in 2013"
- May 22, 2013 - "What We Can Expect from the IRS in 2013" "Self-Employment and Employment Tax Issues in LLCs and S Corporations"
- May 17, 2013 - "Self-Employment and Employment Tax Issues in LLCs and S Corporations"
- May 16, 2013 - "Using Family Limited Partnerships"
- May 8, 2013 - "Panelists - Criminal Tax"
- May 1, 2013 - "Using Family Limited Partnerships"
- April 1, 2013 - "Conservation and Facade Easements: Are They for Real or a Facade?"
- February 1, 2013 - "What Can We Expect From the IRS in 2013?"



- December 10, 2012 - "What We Can Expect from the IRS in 2013"
- December 3, 2012 - "What We Can Expect from the IRS in 2013"
- November 8, 2012 - "Judicial Update"- Austin
- November 7, 2012 - "Judicial Update"- Washington, DC
- September 19, 2012 - "IRS Exams and Collections"
- August 23, 2012 - "IRS Priority #1: Foreign Transactions, Entities and Bank Accounts"
- August 10, 2012 - "Worker Classification"
- August 9, 2012 - "Worker Classification"
- August 1, 2012 - "What Every Attorney Should Know About the IRS"
- May 18, 2012 - "Using Family Limited Partnerships and What to Expect from the IRS"
- May 17, 2012 - "Compliance Issues for U.S. Partnerships with Foreign Partners and U.S. Partners with Foreign Partnerships"
- May 16, 2012 - "Health Care and Independent Contractors: How to Avoid Being A Target"
- May 8, 2012 - "Making Ends Meet: Getting Paid Consistently and Ethically"
- May 2, 2012 - "Making Ends Meet: Getting Paid Consistently and Ethically"
- April 23, 2012 - "Current Trends in IRS Examinations and Appeals"
- January 13, 2012 - "How to Make Sure Your Client Does Not Have IRS Employment Tax Problems"
- December 8, 2011 - "The Evolving Relationship Amongst the IRS, Taxpayers and Tax Professionals"
- December 5, 2011 - "The Evolving Relationship Amongst the IRS, Taxpayers and Tax Professionals"
- December 1, 2011 - "The Evolving Relationship Amongst the IRS, Taxpayers and Tax Professionals"
- November 14, 2011 - "Practical Suggestions and Traps to Avoid When Working with the IRS"
- November 1, 2011 - "Tax Issues in Settlements and Agreements"
- October 28, 2011 - "The Changing Relationship between Taxpayers and the IRS Examination Division"
- October 26, 2011 - "The CPA's Continuing Role in Family Limited Partnership" "Compliance Issues for U.S. Partnerships with Foreign Partners and U.S. Partners in Foreign Partnerships"
- August 4, 2011 - "The IRS and the Tax Professional: Friends or Foes?"
- May 26, 2011 - "Responding to Governmental Inquiries"
- May 25, 2011 - "Professionals as Return Preparers, Witnesses, Targets and IRS Licensees"
- May 18, 2011 - "Don't Give Up on Family Limited Partnerships (FLPs)" "Differences Between Aggressive Tax Planning and Tax Fraud" "The Legislative and Admi
- May 4, 2011 - "Don't Give Up on Family Limited Partnerships (FLPs)" "Differences Between Aggressive Tax Planning and Tax Fraud" "The Legislative and Administrat
- April 21, 2011 - "Tax issues in Divorce and Separation"
- February 7, 2011 - "The Changing Relationship Between Taxpayers and the IRS Examination Division"
- January 4, 2011 - "Divorce and Separation: A "Taxing" Experience"
- December 10, 2010 - "Judicial Update: What's Happening in the Courts?" "Estate Planning Update and Year-End Planning"
- December 7, 2010 - "Judicial Update: What's Happening in the Courts?"
- December 3, 2010 - "Judicial Update: What's Happening in the Courts?" "Estate Planning Update and Year-End Planning"
- November 16, 2010 - "The Changing Relationship Between Taxpayers and the IRS Examination Division"
- November 3, 2010 - "Tax Disputes Before the IRS: Audit, Appeal & Tax Litigation"
- October 21, 2010 - "Exploring Criminal/Civil Overlap Issues" "Employment Tax Law" "Federal Estate and Gift Tax Examinations and Case Updates"



- August 5, 2010 - "Family Limited Partnership Update"
- June 15, 2010 - "IRS Criminal Tax Investigations: Successfully Representing Your Client"
- May 26, 2010 - "Current Trends in IRS Examinations and Appeals"
- May 20, 2010 - "Differences Between Aggressive Tax Planning and Tax Fraud"
- May 19, 2010 - "IRS Attacks on Estate Planning Techniques" and "Litigating FLPs: The Keller Decision"
- February 17, 2010 - "Tax Disputes Before the IRS: Audit, Appeal & Tax Litigation"
- December 9, 2009 - "What are our 'Friends' at the IRS Doing Today?" "Divorce and Separation: A 'Taxing' Experience"
- December 4, 2009 - "What are our 'Friends' at the IRS Doing Today?" "Divorce and Separation: A 'Taxing' Experience"
- December 1, 2009 - "What are our 'Friends' at the IRS Doing Today?" "Divorce and Separation: A 'Taxing' Experience"
- November 19, 2009 - "Current Trends in IRS Examinations and Appeals"
- November 12, 2009 - "Staying out of Trouble: CPAs Communications with Clients and Courts" "IRS Audit" "IRS Examinations/Appeals"
- October 21, 2009 - "Partnership and LLCs Update"
- September 16, 2009 - "Preserving the Benefits of Family Limited Partnerships: What You Need to Know Now"
- August 20, 2009 - "IRS Examinations/Appeals"
- July 8, 2009 - "Update on Tax Issues in Divorce and Separation" (Part II)
- May 13, 2009 - "Tax and Divorce: What You Need to Know"
- April 8, 2009 - "Update on Tax Issues in Divorce and Separation"
- February 11, 2009 - "The Nuts & Bolts of IRS Practice: Audit, Appeal & Tax Litigation"
- February 3, 2009 - "Preparer Beware: Circular 230 and the New Section 6694 Penalty" and "The IRS is Currently Auditing Taxpayers Again: What Issues Will the IRS Likely Raise During your Next Audit?"
- January 29, 2009 - "IRS Examinations of Estate & Gift Tax Returns"
- January 10, 2009 - "Experts on 'Legal' Matters"

Blog

- November 9, 2022 - Want the Employee Retention Credit? The IRS Says Be Careful.
These days you can't throw a rock without hitting someone offering to assist an employer with the Employee Retention Credit(ERC). I have heard multiple reports of "tax specialists" making dubious claims about their ability to assist with ERC, some even claiming that they have received "special IRS training" for the ERC. Of course, they charge a substantial fee for this "specialized" help they will provide.
- October 18, 2022 - The IRS Makes it Easier and Cheaper to Fix Foot Faults on S-Corp Elections
On October 7th, the IRS released Revenue Procedure 2022-19 which provides simplified measures for correcting six procedural missteps that the IRS says are resolvable without requesting a letter ruling. The IRS believes the relief provided in Rev. Proc. 2022-19 will reduce burdens on taxpayers and the government, facilitate increased taxpayer compliance with the rules for electing S corporation status, and reduce costs and delays in completing transactions involving S corporations and qualified subchapter S subsidiaries.
- September 7, 2022 - When is an Amended Return NOT A Qualified Amended Return?
In a prior blog post I discuss options for correcting mistakes and omissions on tax returns and other IRS



filings, including filing a qualified amended tax return ("QAR"). A recent Tax Court opinion, *Lamprecht v. Commissioner*, T.C. Memo. 2022-91, discusses a taxpayer's attempt to avoid the accuracy-related penalty by filing what the taxpayers hoped were QARs.

- August 31, 2022 - The IRS Wants to Interview Me. What Are My Rights?

It can be intimidating for any taxpayer to be contacted by the IRS, much less be interviewed by the IRS. Although I have never asked how they came to the conclusion, some of my clients have said the IRS is more intimidating than the police or FBI. Any taxpayer who is contacted by the IRS for an interview has a right to representation and although the IRS has done a poor job in letting taxpayers know this right, a recent report from the Treasury Inspector General for Tax Administration (TIGTA) says that the IRS is getting better.

- August 22, 2022 - Cash Nana and Papa's Checks Before They Die So the Gift is Completed

Fans of "Seinfeld" will recall that Jerry's grandmother, who everyone referred to as Nana, gave Jerry a \$10 check every year for his birthday, which he never cashed. Years later Jerry's "financial advisor", Kramer, convinces Jerry to cash Nana's checks, however because Nana had closed the bank account, the checks bounce. Nana gets lost while trying to make the checks good.

- July 28, 2022 - AICPA Makes Recommendations to the IRS About Transparency, Communications and Backlog

On July 11th, the American Institute of Certified Public Accountants (AICPA) wrote a letter to the IRS commissioner and Assistant Secretary for Tax Policy, making recommendations and requests for how the IRS could do a better job while it is recovering. The AICPA makes some very good suggestions to which the IRS may or may not agree. It is a quick read for anyone who is interested.

- July 26, 2022 - Want a Charitable Contribution Deduction? Make Sure You Dot the I's and Cross the T's

A recent Tax Court decision, *Albrecht v. Commissioner*, was a reminder that the IRS requirements for substantiating a charitable contribution are strictly enforced by both the IRS and the Tax Court. In *Albrecht*, a widow lost a \$464,000 deduction for failing to comply with the IRS requirements, although many of us would consider it nitpicking by the IRS and the Tax Court.

- June 8, 2022 - Part Two: Are Tax Returns Given to an IRS Agent Considered Filed?

In 2015, I wrote a blog post with this same title ([here](#)) concluding that based on case law, a tax return that is given to a representative of the IRS is not considered filed and, therefore, the statute of limitations does not start. I followed that up with a blog post ([here](#)) last year discussing a case which confirmed that tax returns are not considered filed if merely given to an IRS representative. Furthermore, in 2015 the 9th Circuit reversed a CPA's convictions for tax evasion because "filing" is an element of tax evasion and the CPA handed his fraudulent tax returns to the IRS agent instead of filing them. *United States v. Boitano*

- March 30, 2022 - Some CRATs are CR*P, So Sayeth the IRS and Department of Justice

In a February blog post, *IRS Sends a Shot Across the Bow to Taxpayers With Grantor-Retained Annuity Trusts*, I discussed the IRS blowing up a taxpayer's GRAT planning and sending a message to taxpayers and tax professionals. Soon after, another message was sent when the Justice Department filed a civil complaint in a Missouri District Court accusing five individuals and two LLCs of promoting an abusive tax scheme involving charitable remainder annuity trusts (CRATs) to eliminate capital gains taxes.

- March 16, 2022 - Tax Court Determines That Officer-Shareholder Compensation is Not Reasonable

In a recent memorandum decision, *Clary Hood Inc. v. Commissioner*, T.C. Memo. 2022-15, the Tax Court considered the issue of reasonable compensation to an owner/executive of a construction company. Unfortunately, the Tax Court held that the company failed to establish how the amount it deducted as

compensation for its CEO and shareholder was both reasonable and paid solely as compensation for his services. To add insult to injury, the Tax Court held the company liable for an accuracy-related penalty for one of the years under consideration.

- February 25, 2022 - IRS Sends a Shot Across the Bow to Taxpayers With Grantor-Retained Annuity Trusts
An IRS legal memorandum involving a grantor-retained annuity trust (GRAT) released on December 30, 2021, should be a wake-up call to taxpayers and tax professionals. The memorandum blows up the taxpayer's GRAT by determining that the business asset held in the taxpayer's GRAT was egregiously undervalued allowing the IRS to disregard the GRAT and treat the entire transfer of assets to the trust as an outright gift. Not surprisingly, there are some unique and difficult facts regarding the GRAT and asset at issue, but it is a reminder of the importance of a good valuation and dotting all the I's and crossing all the T's when doing complex tax planning.
- February 14, 2022 - Taxpayer Loses Round One on Substantial Compliance But Still Has a "Reasonable" Chance to Save Its Easement Charitable Deduction
In a February 8th order in *Hickory Equestrian LLC v. Commissioner*, USTC No. 347-21, the U.S. Tax Court partially granted the IRS motion for summary judgment regarding the taxpayer's \$6.4 million easement deduction. The court agreed with the IRS that the partnership's omission of cost basis on Form 8283, "Noncash Charitable Contributions", constituted a failure to satisfy the substantiation requirements of Reg. Section 1.170A-13(c). However, the court left open the possibility that the taxpayer could still save its charitable contribution deduction based on reasonable cause.
- January 31, 2022 - Taxpayer Does Some Creative Do-It-Yourself Estate and Gift Tax Planning and Then Tells the World About It
On January 20th, a U.S. Magistrate Judge in Illinois issued a memorandum opinion and order in *R. David Yost v. Morgan Carroll*, No. 20-C-5393 (N.D. Illinois), which involved a promissory note enforcement dispute between a soon-to-be former father-in-law (Yost) and his soon-to-be former son-in-law (Carroll). The lawsuit was filed after Carroll and Yost's daughter, Annie, started divorce proceedings. The promissory note case does not involve the IRS or any tax issues, but based on the court's order, the IRS, and possibly the Department of Justice, could be making inquiries of the parties soon.
- January 26, 2022 - Taxpayer Advocate Report to Congress-Parts 2 & 3 (Sort of)
Have you ever committed to do something only to later discover that someone has already done it and done it very well? Well, I had one of those moments this week. Last week I wrote a blog post regarding the Taxpayer Advocate's 2021 report entitled *The National Taxpayer Advocate's 2021 Report to Congress (Part 1)*. Because there is a tremendous amount of interesting material in the report (interesting to tax nerds like me), my intent was to write at least one or two other blog posts regarding the Advocate's report to Congress.
- January 24, 2022 - The National Taxpayer Advocate's 2021 Report to Congress (Part 1)
On January 12th, the IRS National Taxpayer Advocate delivered her annual report regarding the IRS to Congress. The report contains statistical information and recommendations for how the IRS could improve its service and how Congress could assist the IRS in making the suggested improvements. For those of us who assist clients with IRS matters, we were not surprised that the Advocate's report stated that 2021 was the most challenging year ever for taxpayers and the IRS. "
- January 19, 2021 - IRS Introduces New Pilot Program to Allow Some Taxpayers to Skip the Line for Letter Rulings
In an early 2019 blog post, we discussed the what and how of requesting an IRS Letter Ruling. The process for obtaining a Letter Ruling can be slow and time consuming and that has been further slowed by the pandemic. In response to "numerous informal comments from taxpayers and practitioners regarding the time



required to process letter ruling requests" on January 14th, the IRS issued Revenue Procedure 2022-10 , which immediately implements an 18-month pilot program that allows taxpayers to request fast-track processing (12 weeks) for letter ruling requests.

- January 10, 2022 - The Tacit Consent Rule and An Unsigned Tax Return

In a recent memorandum opinion, *Om P. Soni v. Commissioner*, T.C. Memo 2021-137, the U.S. Tax Court discussed a rule rarely seen in tax cases, the "tacit consent rule". The court held that although the taxpayer's wife had not signed the tax return at issue and other related documents, her actions invoked the tacit consent rule and she was liable for the tax deficiency.

- December 28, 2021 - Two Recent Tax Court Decisions Regarding Breeding Animals and Hobby Losses: The Miniature Donkey Breeder Had a "Little" Better Facts

The U.S. Tax Court recently issued two memorandum opinions regarding animal breeding activities and whether the taxpayers at issue could deduct expenses in excess of income from the activity. In *Skolnick v. Commissioner*, the Tax Court found that a pair of horse breeders were not engaged in the activity for profit, and thus the deductions were limited by IRC Section 183(b). In *Huff v. Commissioner*, the Tax Court found that a miniature-donkey-breeder venture was engaged in for profit, and therefore expenses in excess of income were allowable deductions under Section 162(a).

- October 7, 2021 - The Impact of Delinquent International Informational Returns on the IRS Statute of Limitations

Early this year the U.S. Tax Court released a decision in *Kelly v. Commissioner*, which, among other things, discusses how a delinquent international return impacts the IRS statute of limitations for assessment. It is a welcomed partial win for a taxpayer and contains a good discussion of reliance on a tax professional as the basis for reasonable cause.

- September 14, 2021 - The Hidden Danger of Filing a Tax Court Petition, Part II

In an earlier blog post, I discussed the hidden danger of filing a Tax Court petition, i.e., that the IRS can raise new issues, including new penalties. In the case referenced in the prior blog post, *Wegbreit v. Commissioner*, T.C. Memo. 2019-82, the Notice of Deficiency included a 20% negligence penalty, the taxpayer filed a Tax Court petition and after the IRS filed its answer and conducted some discovery, the IRS amended its answer to include 75% civil fraud penalty.

- September 10, 2021 - Court Agrees with Taxpayer and Quashes Summonses to Third-Party Record Keeper

In a rare win for a taxpayer, a federal district court in Idaho turned down an IRS request to enforce third-party summonses for information and granted the taxpayers' motion to quash the summonses. The court said the IRS failed to properly notify the taxpayers of its intent to contact a third party during the course of the examination and therefore, the summonses was not enforceable.

- September 8, 2021 - TIGTA Says the IRS Should Be Pursuing Taxes From S Corporation Owners

The tax treatment of compensation to S-Corp owners has reared its head again in an August 11th report issued by the Treasury Inspector General for Tax Administration (TIGTA). As long as I have practiced tax law, tax treatment of distributions to S corporation shareholders has been an issue with no clear answer. Not surprisingly, the TIGTA report says the IRS should be doing more to examine distributions to S corporation owners.

- August 18, 2021 - IRS-The 10 Deadly Sins

I've been practicing tax law for more than 30 years helping businesses and individuals resolve disputes with the IRS and I can't tell you how many times a new client has complained about how they were mistreated by the IRS and that IRS employees can do whatever they want because they have lifetime employment. In 1998, in response to the congressional testimony regarding perceived IRS abuse of taxpayers, Congress enacted



the 1998 Revenue Reform Act (RRA 98) which, many of us will recall, was intended to make for a kinder and gentler IRS. Taxpayers became "customers" and tax professionals became "partners". I'll leave for another post my thoughts about RRA 98 and whether the IRS became kinder and gentler. What I am addressing today is Section 1203 of RRA 98, a list of 10 actions by an IRS employee that can result in automatic termination of employment, with appeal only to the IRS Commissioner, i.e., the Ten Deadly Sins.

- August 11, 2021 - Musing While Waiting on Hold for Someone at the IRS to Answer My Question
Trying to work out a client's IRS issues these days can be frustrating for the client and the tax professional. You can't throw a stone without hitting a story about delays and problems the IRS is having. I was recently waiting on hold with the IRS hoping to find someone who could help me find out the status of my client's refund claim. While I listened to the "wonderful" hold music that is on a 30 second loop and hoped I would not get a "courtesy" hang up, I started doing some web surfing and stumbled onto the Taxpayer Advocate Service webpage. At the very top of the TAS webpage is the following: "Refund delayed? Our ability to help may be limited" and a link to a page detailing why the TAS may not be able to help with a delayed refund. Not a good sign.
- August 10, 2021 - Tax Court Petitions and Premature Assessment
When a taxpayer does not agree with tax adjustments proposed by an IRS examiner, the IRS sends the taxpayer a Notice of Deficiency, which gives a taxpayer 90 days to file a petition with the U.S. Tax Court to dispute the proposed adjustments. If the taxpayer files a timely petition, the IRS cannot assess the proposed tax until the case is resolved by the U.S. Tax Court. If a taxpayer does not file a tax court petition, the IRS assesses the tax and the taxpayer is contacted by the IRS collection division for payment.
- August 4, 2021 - IRS Statute of Limitations and Civil Fraud
On July 26th, U.S. Tax Court Judge Lauber issued an opinion in *George S. Harrington v. Commissioner*, upholding the IRS' determinations that the taxpayer fraudulently underreported his offshore income and the civil fraud penalty applied. There is nothing particularly unique about the case but it includes a very good discussion of the factors the court will consider when the IRS proposes a civil fraud penalty and the resulting impact on the statute of limitations.
- July 29, 2021 - Taxpayer's Penalty Defense Gets Boiled (Boiled?)
In previous blog posts I have discussed the late filing penalty and the reliance on a tax professional defense to the penalty. We discussed the reliance defense with respect to a late estate tax return and with respect to late e-filed returns .
- July 27, 2021 - Are You Feeling Lucky? IRS Taxes on Wagers and Bookmakers
These days it seems like the government taxes everything it can. While it is debatable whether or not that is true, there are a number of "hidden" taxes of which many taxpayers are unaware. Taxes on wagers and occupational taxes on bookmakers are a couple of those "hidden" taxes. Although the casinos in Las Vegas know about and pay these taxes, illegal bookmakers may not be and could be facing significant tax liabilities as a result.
- March 9, 2021 - Missteps in Filing a Tax Return Come Back to Haunt the Taxpayer and Her Representative
In prior blog posts, I discussed the mailbox rule and filing tax returns with the IRS. A recent case in Michigan reiterates the lesson discussed in that blog post about always using certified or registered mail if a tax return is mailed to the IRS. In addition, the Michigan case confirms that a taxpayer should always file a tax return in the manner described by the Internal Revenue Code and regulations, and not file it with an IRS representative not authorized to receive a return.
- February 18, 2021 - Another Tax Court case involving the Danielson Rule and this Time the Taxpayer Wins
In a prior blog post, I discussed a Tax Court memorandum opinion in *Watts v. Comm'r*, 2020-144, in which



the Tax Court cited to the Danielson rule in holding for the IRS. The last line of that blog post reads, "The lesson from Watts and Danielson is that a taxpayer who attempts to disavow the tax consequences of an arm's length agreement will face a significant uphill battle." Well, only a few months later, the taxpayer in another Tax Court memorandum opinion, *Complex Media Inc. v. Commissioner*, T.C. Memo 2021-14, prevailed in that uphill battle and convinced the Tax Court that the taxpayer could disavow and recharacterize the form of a transaction.

- February 8, 2021 - Timely Filed IRS Documents and the Mailbox Rule
In a prior blog post, I discussed when the statute of limitation for the IRS assessing tax starts. The simple answer is, the statute of limitations starts when the tax return is filed. I recently read a case, *Taha v. United States*, which is being appealed by the taxpayer to the Federal Circuit Court of Appeals and involves a refund claim, the statute of limitations and the common law "mailbox rule".
- February 1, 2021 - When Does the Statute of Limitations for Assessing Tax Start?
I thought I would blog about a couple of December 2020 tax cases, decided within five days of each other, that involved taxpayers arguing that the IRS was time barred from assessing tax because the statute of limitations had run. In both cases, the IRS argued an assessment of tax was not time barred because the taxpayer had failed to file the required tax returns. In one case, *Quezada v. IRS*, the Fifth Circuit held in favor of the taxpayer, and in the other, *Coffey v. Commissioner*, the Eighth Circuit held in favor of the IRS.
- January 26, 2021 - IRC Section 6901 and Transferee Liability
In a previous blog post, I discussed a case involving the liability of an executor for unpaid federal estate taxes. In this blog post, I will discuss the basics of transferee liability for a transferor's taxes.
- November 30, 2020 - Section 469 and Material Participation
One of the tools in the IRS toolkit for limiting a taxpayer's business and investment loss deductions is IRC Section 469 and material participation. In *Gurpreet S. Padda and Pamela B. Kane v. Commissioner*, the U.S. Tax Court held that a practicing medical doctor met the IRC Section 469 material participation requirements for five restaurants and a brewery, and could deduct the losses generated by those business in full.
- November 23, 2020 - Can An Executor of An Estate That Owes Taxes Be Personally Liable?
In an unpublished decision, a U.S. District Court in New Jersey granted the government summary judgment against the executors of two related estates for fiduciary liability claims for failure to pay federal estate tax. *United States v. Estate of Lorraine Kelley, et. al* has a detailed discussion of how an estate executor can become personally liable for the estate tax and is a good example of what an executor should not do.
- November 4, 2020 - "Houston, We Have a Problem"- Options for Correcting Mistakes and Omissions on Tax Returns and Other IRS Filings
The federal tax system is a voluntary system that relies on taxpayers to file complete and accurate tax returns and other information with the IRS. However, sometimes after a tax return or other information is filed with the IRS, a taxpayer discovers it was incomplete or inaccurate. In order to avoid potential civil or criminal penalties, a taxpayer may want to act. This blog post discusses some of the options taxpayers have for addressing incomplete or inaccurate tax filings.
- October 28, 2020 - What is the Danielson Rule?
In the recent case of *Watts v. Comm'r*, T.C. Memo. 2020-143, the Tax Court cited to the Danielson rule in holding for the IRS. So, what is the Danielson rule?
- October 21, 2020 - Claiming A Theft Loss Deduction
Pursuant to IRC Section 165, a taxpayer can deduct uncompensated losses resulting from a theft. For the



years 2018-2025 personal theft loss deductions are limited to those attributable to a federal declared disaster. However a theft loss connected with a trade or business or a transaction entered into for profit is still deductible to the extent the theft loss meets the requirements of Section 165.

- October 8, 2020 - Amended Tax Return or Superseding Tax Return?

I recently had one of those "aha" moments and thought it was blog-post worthy. A tax return preparer called me after a tax return he tried to electronically file was rejected by the IRS because a return had already been filed for the taxpayer for same tax period. The first thought is: this is a case of stolen identity and a fraudulent return, right? In most cases, yes; but in this case, wrong. Upon further investigation, the preparer found that his office had inadvertently filed an incomplete return for the taxpayer, ten days before. In fact, the return that was filed was completely blank.

- September 29, 2020 - IRS Has Requested Comments on Ending Revenue Procedure 94-69 Disclosures As a Defense to Penalties

On August 19, 2020 the IRS requested comments on whether it should eliminate disclosures made under Revenue Procedure 94-69, which allows taxpayers to avoid accuracy-related penalties with respect to self-reported adjustments at the beginning of an IRS audit

- August 31, 2020 - Using the Substantial Compliance Doctrine to Defeat the IRS

On August 17th, the Tax Court held in favor of the taxpayers regarding a \$4 million charitable contribution deduction for donating land to a town in *Emanouil v. Commissioner*, T.C. Memo 2020-10. The IRS had challenged the taxpayer's deduction for a number of reasons including the taxpayers' appraisals did not include all the required information and therefore failed to comply with the qualified appraisal requirements. In holding for the taxpayers, the Tax Court cited the taxpayer-friendly substantial compliance doctrine.

- July 9, 2020 - The IRS Publishes a Roadmap for Bipartisan Budget Act (BBA) Partnership Audits

On July 6th, the IRS published a BBA Roadmap for Taxpayers to assist partnerships subject to the centralized partnership audit regime. The centralized partnership audit regime was created in the Bipartisan Budget Act of 2015 and applies to partnership tax years beginning after December 31, 2017. Although the IRS has already started some BBA audits, the release of the roadmap is likely an indication that more partnership audits will be starting soon.

- July 7, 2020 - IRS Releases Practice Unit on Reasonable Cause and Good Faith Defenses to Penalties

On July 2, 2020, the IRS released a practice unit addressing a taxpayer's reasonable cause and good faith defenses to civil penalties. IRS practice units are developed through internal collaboration and serve as both job aids and training materials on tax issues. Practice units provide a general discussion of a concept, process or transaction and are a means for collaborating and sharing knowledge among IRS employees. A list of the IRS practice units can be found [here](#). Although practice units are not official pronouncements of law or directives and cannot be used, cited or relied upon, they provide insight to taxpayers and tax advisors.

- July 6, 2020 - Working With the New IRS Independent Office of Appeals

On July 1, 2019, the Taxpayer First Act was signed into law and among other things, it established the "Internal Revenue Service Independent Office of Appeals". The IRS Office of Appeals has been around for almost 100 years and has generally been independent. However, the Taxpayer First Act codified the Office of Appeals and its long-standing purpose and duties, i.e., "to resolve tax controversies, without litigation, on a basis which is fair and impartial to both the Government and [the taxpayer] in a manner that will enhance voluntary compliance and [public confidence] in the integrity and efficiency of the Service".

- June 29, 2020 - The IRS Offers a Settlement Opportunity to Abusive Easement Cases

In an unexpected development on June 25th, the IRS announced a time-limited settlement offer to certain taxpayers with pending docketed Tax Court cases involving syndicated conservation easement transactions.



The settlement offer is surprising because on June 18th, IRS SB/SE Division Commissioner, Eric Hylton, stated that the IRS was not considering a resolution program for syndicated conservation easements similar to the microcaptive insurance settlement offer.

- **June 22, 2020 - Tax Court Hands a Taxpayer a Rare Win in a Worker Classification Case**
On June 17th, U.S. Tax Court Judge Tamara Ashford issued an opinion in *Leticia C. Santos v. Commissioner* holding for a taxpayer on a worker classification case. We have previously discussed how the IRS usually tries bad-fact cases, so a taxpayer win regarding worker classification is something to write about.
- **June 18, 2020 - Stress Testing the Estate Plan**
In a previous blog post we discussed the Tax Court's recent decision in *The Estate of Howard V. Moore v. Commissioner*. An important take away from *Moore* for tax professionals and their clients is the importance of stress testing the estate planning to avoid being "low hanging fruit" for the IRS.
- **June 16, 2020 - A Tough Lesson About Estate Planning-The Estate of Howard V. Moore v. Commissioner**
Earlier this year, the U.S. Tax Court in *The Estate of Howard V. Moore v. Commissioner* reminded every taxpayer that while estate planning is important, to achieve the intended estate tax benefits, traps must be avoided.
- **June 8, 2020 - IRS Called Out for Not Pursuing High Income Taxpayers**
On May 29, 2020, the Treasury Inspector General for Tax Administration (TIGTA) issued a report entitled, "High-Income Nonfilers Owing Billions of Dollars Are Not Being Worked by the Internal Revenue Service". The report found that 879,415 high-income taxpayers failed to file tax returns from 2014-2016 resulting in approximately \$45.7 billion in unpaid taxes. On June 4, 2020, the Senate Finance Committee Chairman, Chuck Grassley, sent a letter to IRS Commissioner, Charles Rettig, requesting information on how many tax dollars went uncollected and why there was so little effort to address the issue.
- **June 5, 2020 - A District Court Pushes Back on Government's Willful FBAR Penalty**
After a string of government victories in willful FBAR penalty cases, there may be some light at the end of the tunnel for taxpayers challenging an assertion of a willful FBAR penalty. In *United States v. Sandra J. de Forrest*, the U.S. District Court for the District of Nevada denied the government's motion for partial summary judgment regarding a willful FBAR penalty, finding there were genuine disputed material facts regarding the taxpayer's knowledge of the obligation to file an FBAR.
- **June 6, 2020 - U.S. Tax Court Announces Trial Sessions will be Conducted Remotely**
On May 29th, the U.S. Tax Court announced it will be conducting remote trial sessions until further notice, joining many other courts around the country.
- **May 26, 2020 - Update on IRS Voluntary Disclosures**
In a previous blog post, we discussed how and when to make a voluntary disclosure to the IRS using the revised voluntary disclosure guidelines announced by the IRS in November 2018. In April 2020, the IRS quietly updated Form 14457, Voluntary Disclosure Practice Preclearance Request and Application and its instructions. The changes to the form and instructions answer some of the outstanding questions but also raise new questions. For example, while the instructions clearly state that a disclosure will not guarantee immunity from prosecution, they also state multiple times that the practice provides a way to "avoid potential criminal prosecution."
- **February 10, 2020 - The Who, What, When and Where of IRS Form 8938, Statement of Specified Foreign Financial Assets**
IRC Section 6038D requires any taxpayer who has an interest in a "specified foreign financial asset" to disclose that asset to the IRS on a Form 8938 attached to the taxpayer's annual tax return. The penalty for failure to file Form 8938 is \$10,000. If failure continues for more than 90 days after notification by the IRS, an



additional penalty of \$10,000 will apply for each 30-day period during which the failure continues. The maximum penalty for a continuing failure to file a Form 8938 is \$50,000.

- February 3, 2020 - The Who, What, When and Where of FBAR/FINCEN Form 114
What is an FBAR? Every year taxpayers must report certain foreign financial accounts, such as bank accounts, brokerage accounts and mutual funds, to the Treasury Department and keep certain records of those accounts. Taxpayers report the accounts by filing a Report of Foreign Bank and Financial Accounts (FBAR) on FinCEN Form 114.
- January 27, 2020 - Taxpayers With Undisclosed Foreign Accounts and Activities Beware: The IRS and Other Taxing Authorities Are Coordinating Efforts to Tackle International Tax Evasion
On January 23rd the Joint Chiefs of Global Tax Enforcement (J5) released the following statement regarding its "day of action" conducted on January 22nd.
- January 20, 2020 - Update on IRS Civil Enforcement Priorities
Last week, I participated in a conference call with IRS officials from Examination and Collection who were discussing the IRS' 2020 enforcement priorities. Here are the take-aways from the call.
- January 13, 2020 - Surprise, Surprise, An Estate Has Reasonable Cause For Filing A Tax Return Late
In prior blog posts we have discussed the uphill battle an estate faces when it requests abatement of a late filing penalty when the Form 706, United States Estate Tax Return, is not timely filed. Although there are cases where an estate has prevailed on a reasonable cause/reliance defense, they are few and far between. In the typical case, the court cites *United States v. Boyle* in holding that a taxpayer can rely on a tax professional for tax advice, but not regarding the "ministerial act" of filing a tax return on time.
- January 6, 2020 - IRS Coming After Tax-Delinquent Wealthy People in 2020
At recent tax programs, IRS officials referenced a new program called "Hi-Def" which will be targeting wealthy people who have not filed tax returns. The program is intended to address the perception that the IRS does not pursue delinquent wealthy people.
- November 21, 2019 - Fifteen Things You Should Know About Selling Your Business
 1. Company Records. When you first begin contemplating a sale, you need to make sure the business's records are in order and up to date. You want your business's records in good shape to produce to a potential buyer at the due diligence stage. Keep a minute book with annual minutes or annual unanimous written consents as well as consents (or minutes of special meetings) approving major transactions, such as loans, etc. Retain copies of all of the business's fully executed contracts (loan documents, customer agreements, vendor agreements). This way, there is no question whether the company is obligated under a contract for which you have only kept a partially executed copy.
- September 4, 2019 - IRS Form 8275: To Disclose or Not Disclose -- That Is The Question
At least once in their career most tax return preparers have faced the dilemma of whether and how to make a disclosure with a tax return. A disclosure is an extra explanation beyond the usual income and expenses shown on a tax return. Not surprisingly, most taxpayers do not want to disclose anything more than necessary to the IRS. There may be privacy concerns or they just don't want the IRS to know anything more than necessary about them or their business. They also may be concerned that a disclosure is a red flag and will increase the chances of an IRS audit. All of these are legitimate concerns, but a disclosure can protect the taxpayer -- and maybe more importantly the tax return preparer -- from penalties.
- August 19, 2019 - When Can the IRS Abate Interest?
Interest on a federal tax liability generally begins accruing from the date the tax should have been paid, even



when the additional tax is due to IRS examination changes. IRC Section 6404 allows the IRS to abate interest under some specific circumstances, primarily unreasonable delay by the IRS in determining the taxpayer's tax liability.

- August 8, 2019 - A New Court Decision on E-Filed Tax Returns and the Failure to File Penalty
In prior blog posts, I discussed the application of the IRC Section 6651 failure-to-file penalty to an electronically-filed tax return. On August 2nd, a U.S. District Court in Tennessee took on the issue directly and ruled against a taxpayer holding that the U.S. Supreme Court decision in *United States v. Boyle* is applicable even when the tax return is filed electronically.
- August 6, 2019 - The Importance of Hiring the Right Valuation Expert in an Estate Tax Case
Expert testimony in litigation is very important. It is even more important in an estate tax case where the only issue is the value of the decedent's assets and the case will likely turn on valuation expert testimony. The 9th Circuit's recent unpublished affirmation of the Tax Court's decision in *Estate of Kollman v. Commissioner* highlights the importance of vetting and hiring the right valuation expert.
- July 29, 2019 - The Hidden Dangers of Filing a Tax Court Petition
When the IRS examines a tax return and proposes adjustments, it will send a Notice of Deficiency to the taxpayer setting forth the adjustments. A taxpayer who disagrees with the Notice of Deficiency may file a petition with the U.S. Tax Court disputing the IRS proposed adjustments without first paying the resulting tax, penalties and interest. Although this seems a like a simple and economical means for disputing IRS examination adjustments, as former football coach and current ESPN commentator Lee Corso says, "Not so fast my friend!!"
- July 17, 2019 - Shifting the Burden of Proof to the IRS
In a prior blog post, I discussed the burden of proof in a tax controversy and how in most situations, the taxpayer has the burden of proof. In this post, I will discuss how a taxpayer can shift the burden of proof to the IRS. While the result of most cases does not turn on which party has the burden of proof, it is my experience that the willingness of IRS counsel to discuss a reasonable settlement increases if the IRS has the burden of proof.
- June 11, 2019 - Burden of Proof in Tax Cases
A search of the IRS website for "burden of proof" turns up the following statement: "The responsibility to prove entries, deductions, and statements made on your tax returns is known as the burden of proof. You must be able to prove (substantiate) certain elements of expenses to deduct them. Generally, taxpayers meet their burden of proof by having the information and receipts (where needed) for the expenses. You should keep adequate records to prove your expenses or have sufficient evidence that will support your own statement. You generally must have documentary evidence, such as receipts, canceled checks, or bills, to support your expenses. Additional evidence is required for travel, entertainment, gifts, and auto expenses."
- May 22, 2019 - Latest on IRS Criminal Investigations
In a prior blog post, we discussed some of the items of interest in the 2018 IRS Criminal Investigation Division's 2018 Annual Report released in November 2018. In recent weeks, there have been a few additional items of interest involving IRS Criminal Investigation (CI).
- March 28, 2019 - Senate Finance Committee Launches Tax Investigation of Conservation Easements
On March 27th, the Senate Finance Committee launched an investigation into conservation easements by sending letters to 14 people involved in easement transactions. The letters ask for copies of appraisals, promotional materials and internal documents. The senators are also requesting investors' names and addresses, along with information about promoters' fees.



- February 26, 2019 - Appeals Court Holds That No Offer Is Too Low To Be A Qualified Offer
In a prior blog post we discussed using a Qualified Offer as a tool for settling a tax case with the government. On February 8th, the U.S. Court of Appeals for the Federal Circuit issued an opinion in BASR Partnership v. United States, holding that a partnership that prevailed in case against the IRS could recover its reasonable litigation costs from the government when it submitted a nominal \$1 qualified offer.
- February 14, 2019 - Formal Document Request
In prior blog posts, we discussed the IRS using a summons to obtain information and options a taxpayer or third party has for responding to or objecting to a summons. In this blog post we will discuss an additional tool the IRS has to obtain information, a Formal Document Request ("FDR").
- February 4, 2019 - Still No Answer on Late Filing Penalty on Electronically Filed Tax Returns
In a blog post last year, we discussed the parties' oral arguments in the 5th Circuit Court of Appeal hearing in Haynes v. United States regarding the application of reasonable cause and a late filing penalty to an electronically filed tax return. On January 29th, the 5th Circuit issued an opinion in Haynes vacating the district court's grant of the government's motion for summary judgment and remanded the case to the district court for additional consideration. However, in vacating the lower court decision, the 5th Circuit declined to address the question of whether the U.S. Supreme Court decision in U.S. v. Boyle is still valid law in the age of electronic filing of tax returns.
- January 31, 2019 - New Partnership Audit Rules: Should the Partnership Agreement be Amended?
In November 2015, as part of the Bipartisan Budget Act (BBA) of 2015, Congress enacted a new centralized partnership audit regime (PAR) to replace the TEFRA partnership rules. The PAR applies to all partnerships and, like TEFRA, IRS examinations and adjustments will be made at the partnership level. However, unlike TEFRA, the IRS will assess and collect tax from the partnership.
- January 30, 2019 - Opting Out of the New Partnership Audit Rules
In November 2015, as part of the Bipartisan Budget Act (BBA) of 2015, Congress enacted a new centralized partnership audit regime to replace the TEFRA partnership rules. The new partnership audit regime applies to all partnerships and, like TEFRA, IRS examinations and adjustments will be made at the partnership level. However, unlike TEFRA, the IRS will assess and collect tax from the partnership.
- January 23, 2019 - Thoughts and Consideration Regarding the Designation of a Partnership Representative
In November 2015, as part of the Bipartisan Budget Act (BBA) of 2015, Congress enacted a new centralized partnership audit regime to replace the TEFRA partnership rules. The new centralized partnership audit regime is generally effective for partnership tax years beginning after December 31, 2017. As a result, the 2018 tax returns for most partnerships will be the first tax return filed under the new regime. One of the first questions partnerships, partners and tax professionals will face is determining who will be the Partnership Representative (PR). Although this would seem to be a simple question to answer, as explained below, it is much more involved than selecting a Tax Matters Partner (TMP) under the old TEFRA regime. This is especially true because any tax liability resulting from an IRS audit under the new centralized partnership audit regime is to be paid by the partnership in the current year, unless the PR takes affirmative steps otherwise. Failure by the PR to take action on a timely basis could result in a mismatch of tax burdens and tax benefits between current and former partners in a partnership.
- January 3, 2019 - IRS Updates Guidance on Disclosures and Accuracy Related Penalties
On December 20th, the IRS released Revenue Procedure 2019-9 providing guidance on whether disclosure of an item or position taken on a tax return is adequate for purposes of reducing or eliminating the Substantial Understatement of Income Tax Penalty (IRC Section 6662(d)) and the Return Preparer Penalty (IRC Section 6694(a)). Rev. Proc. 2019-9 updates Rev. Proc. 2018-11 and makes editorial but "no additional substantive



changes". Rev. Proc. 2019-9 applies to any income tax return filed on 2018 tax forms for a tax year beginning in 2018, and to any income tax return filed in 2019 on 2018 tax forms for short tax years beginning in 2019.

- December 4, 2018 - IRS Revises Voluntary Disclosure Practice
On November 20th, the IRS issued Memorandum LB&I-09-1118-014 updating the process for both domestic and foreign voluntary disclosures. The IRS voluntary disclosure program is found in section 9.5.11.9 of the Internal Revenue Manual and is a long standing practice of the IRS to provide taxpayers who have potential criminal exposure a means to come into compliance with the law and potentially avoid criminal prosecution. In a prior blog post , we discussed the basics of the IRS voluntary disclosure program.
- November 28, 2018 - Reacting and Responding to the Commencement of an IRS Criminal Investigation
How a taxpayer or tax professional reacts and responds to a visit by IRS criminal investigators may mean the difference between a criminal indictment and the IRS declining to pursue a criminal case.
- November 20, 2018 - Update from the IRS Regarding Like-Kind Exchanges
On November 19th, the IRS issued IR-2018-227, reminding taxpayers that Like-Kind exchange tax treatment is now generally limited to exchanges in real property that is held for use in a trade or business or for investment. Real property includes land and generally anything built on or attached to it. An exchange of real property held primarily for sale still does not qualify as a Like-Kind exchange.
- November 15, 2018 - IRS Criminal Investigation Releases Its 2018 Annual Report
On November 14, IRS Criminal Investigation released its 2018 Annual Report. The report comes on the heels of IRS-CI Deputy Chief Eric Hylton's statement at the ABA Section of Taxation meeting in early October that CI plans to hire 250 new special agents over the next 18 months.
- September 24, 2018 - How to Respond to an IRS Backup Withholding Notice
The Internal Revenue Code provides that if a business files an information return that has a missing or incorrect Taxpayer Identification Number (TIN), the business will be notified by the IRS and may be required to withhold a specified percentage (24% for payments made after 12/31/17) of certain reportable payments made to the payee with the missing or incorrect TIN. Businesses that ignore the IRS notices and fail to comply may be responsible for uncollected taxes and face penalties for filing incorrect information returns.
- September 20, 2018 - Information Reporting Penalty and the Reasonable Cause Defense
Forms W-2 are subject to information reporting penalties under Sections 6721 and 6722 of the Internal Revenue Code. Section 6721 imposes a penalty for any failure to file an information return timely, for any failure to include all required information, or for the inclusion of incorrect information. Section 6722 imposes a penalty in the case of any failure to furnish a payee statement on or before the required date, any failure to include the required information, or the inclusion of incorrect information.
- September 14, 2018 - IRS Collection and Retirement Accounts
Pursuant to IRC Section 72(t)(1), if a taxpayer receives a distribution from a qualified retirement account, the taxpayer not only faces potential taxes on the distribution amount itself, but also an additional tax equal to 10% of the amount of the distribution that is includible in gross income. There are a number of exceptions to the 10% rule, most notably distributions made after the taxpayer has reached the age of 59 -.
- September 12, 2018 - Does Failure to Oversee A Trusted Employee Equal Willful Conduct for the Trust Fund Recovery Penalty?

In prior blog posts, we discussed the McClendon case where a doctor made a loan to his business to make payroll, and in doing so, inadvertently exposed himself to liability for the trust fund recovery penalty. The 5th Circuit recently returned the case to the U.S. District Court for further consideration, including the



Government's argument that the doctor's failure to oversee the trusted employee to whom he delegated the duty of filing payroll tax returns and paying the employment taxes satisfies the willfulness element of IRC Section 6672.

- September 4, 2018 - The Continuing Saga of Dr. McClendon and The Trust Fund Recovery Penalty
In a prior blog post, we discussed the case of Dr. Robert McClendon and the IRS' assessment of the Trust Fund Recovery Penalty against him due to his attempt to do the right thing. In 2016, a U.S. District Court granted the IRS' motion for summary judgement regarding the trust fund recovery penalty, because Dr. McClendon, after learning that his medical practice owed the IRS payroll taxes, loaned the business \$100,000 to make its payroll to employees.
- July 17, 2018 - Are E-Filed Tax Returns Subject to the Same Late Filing Rules as Paper Tax Returns?
On July 11th, the 5th Circuit Court of Appeals heard arguments in *Haynes v. United States* regarding the application of a late filing penalty to an electronically filed tax return that was filed late due to a computer software malfunction. The question before the 5th Circuit is whether the U.S. Supreme Court decision in *U.S. v. Boyle* is still valid law in the age of electronic filing of tax returns.
- June 26, 2018 - Can a Taxpayer Avoid a Civil Fraud Penalty by Filing an Amended Tax Return?
In a prior blog post, we discussed amending a tax return to avoid the accuracy-related penalties. This blog post will discuss whether the same strategy can be used to avoid the civil fraud penalty under IRC Section 6663.
- May 30, 2018 - Obtaining Information from the IRS: Part II
In a prior blog post, we discussed using a Freedom of Information Act request to obtain information from the IRS. In this blog post we will discuss some other sources of information from the IRS.
- May 25, 2018 - Obtaining Information from the IRS: The Freedom of Information Act Request
When the IRS is attempting to enforce the tax laws, it will ask for documents and information from a taxpayer. Just as it is important for the IRS to obtain information from the taxpayer, it is equally important for the taxpayer to obtain information from the IRS. This blog post will discuss one alternative for accessing IRS documents and information, the Freedom of Information Act, 5 U.S.C. 552. A Freedom of Information Act request should be considered in any situation where a taxpayer is interacting with the IRS, including an audit of tax returns, collection of delinquent taxes, assessment of penalties, determination of a responsible person for payroll taxes, request for delinquent tax returns or a criminal tax investigation.
- April 30, 2018 - Update on IRS Denial or Revocation of Passports
In a prior blog post we discussed IRC Section 7345 which allows the IRS to take actions to either revoke or deny a passport to a taxpayer with a seriously delinquent tax debt. On April 5, IRS Chief Counsel issued Notice CC-2018-005 which provides guidance for Chief Counsel attorneys regarding how to handle a lawsuit brought by a taxpayer in U.S. Tax Court pursuant to Section 7345(e). This notice was issued on the heels of IRS Deputy Chief Counsel Drita Tunuzi stating at a recent ABA Tax Section meeting that the IRS would probably start issuing the notices of passport revocation or denial by the end of February.
- April 23, 2018 - Methods of Proof in a Criminal Tax Investigation
In a criminal tax investigation, the IRS generally must prove a taxpayer either underreported his income or overstated his deductions. To do so the IRS uses a number of methods of proof that fall under one of two categories: Direct (Specific Items) Method of Proof or Indirect Methods of Proof.
- April 9, 2018 - What Is A Kovel Accountant?
An attorney who represents a client in a criminal tax investigation will typically retain a forensic accountant to



review and analyze the client's financial records and tax returns mirroring the work of the IRS criminal investigators. The accountant is generally referred to as a "Kovel Accountant" and is hired by the attorney, not the client, so that the accountant's work is protected by the attorney-client privilege.

- **March 19, 2018 - Update On The IRS Attack on Conservation Easements**

In prior blog posts, we discussed IRS efforts to combat what it considers to be abusive conservation easements deductions. In Notice 2017-10, the IRS warned that certain conservation easement deductions could be designed to avoid tax and had to be disclosed to the IRS. The notice said that some promoters "are syndicating conservation easement transactions that purport to give investors the opportunity to claim charitable contribution deductions in amounts that significantly exceed the amount invested."

- **February 28, 2018 - IRS Is Contacting Taxpayers Who Were Denied Access To or Withdrew From the Offshore Voluntary Disclosure Program**

Since the beginning of the year taxpayers who either were denied access to or withdrew from the IRS Offshore Voluntary Disclosure Program (OVDP) have been receiving Letter 5935 from the IRS notifying them that they need to come into compliance with U.S. reporting requirements relating to foreign income, foreign entities, and/or foreign financial accounts. The letter is part of the IRS Large Business & International (LB&I) campaign announced late last year called "OVDP Declines-Withdrawals Campaign".

- **February 28, 2018 - Coinbase Turning Over Information To the IRS Regarding Customers' Investments in Bitcoins**

In previous blog posts, we have discussed the IRS and Department of Justice focus on virtual currencies and the IRS John Doe Summons that was served on Coinbase, the largest Bitcoin exchange in the United States. Late last year, Coinbase was ordered to comply with the IRS John Doe Summons for customer information. The summons to Coinbase was based in part on information obtained by the IRS in an audit of one or more taxpayers who admitted they had been using Bitcoin to underreport their taxable income.

- **January 12, 2018 - The IRS' New Authentication Procedure for Tax Practitioners**

Any tax practitioner who has contacted the IRS after January 3, 2018 to obtain client information has received an unpleasant surprise. The IRS is asking the practitioner to provide his or her social security number and date of birth for authentication purposes. There is no doubt this is an attempt to address security concerns, including concerns about compromised CAF numbers, but the change has caught many in the tax community off guard and led to unpleasant exchanges with IRS personnel.

- **December 5, 2017 - A Couple of Interesting Rulings in Undisclosed Foreign Account Penalty Cases**

Read about two cases involving interesting rulings in Undisclosed Foreign Account Penalty Cases: *United States v. Forbes* and *Jarnagin v. United States*.

- **December 4, 2017 - Bitcoin Is Drawing the Interest of Investors and the IRS**

In a prior blog post ([here](#)) my colleague Chris Weeg discussed using Bitcoin as part of year end charitable giving. Bitcoin has been in the news lately as the value of a single Bitcoin has risen dramatically in the last month. Some financial experts view Bitcoin as the next great investment, while other financial investors believe that Bitcoin is a scam. Currently Bitcoin has limited usage beyond investment, but one of the Big 4 accounting firms says it has begun accepting Bitcoin as payment ([here](#)). In addition, futures trading on Bitcoin is expected to start next week.

- **November 6, 2017 - IRS Announces 11 New Enforcement Campaigns: Swiss Account Holders Beware**

On November 3rd, the IRS announced the rollout of 11 Large Business and International (LB&I) enforcement campaigns. The 11 new campaigns are in addition to the 13 LB&I enforcement campaigns introduced by the IRS in January 2017



- **October 11, 2017 - Options for Taxpayers With Unfiled Tax Returns**
Whether due to oversight or intentional conduct, there are number of individuals and businesses with unfiled federal tax returns. Under the Internal Revenue Code (IRC) the failure to file a tax return is a misdemeanor (IRC Section 7203) punishable by imprisonment of not more than one year and a fine of up to \$25,000.
- **October 2, 2017 - TIGTA Report on IRS Estate and Gift Tax Examinations**
On September 28th, the Treasury Inspector General of Tax Administration (TIGTA) issued a report recommending changes to fix the procedures the IRS uses to select estate and gift tax returns for examination.
- **July 5, 2017 - Practical Suggestions for Effectively Representing a Taxpayer Before IRS Appeals**
In a previous blog posted on June 27, 2017, we discussed some suggestions for representing taxpayers in a IRS examination. In this blog, we discuss the next step, i.e., when the exam cannot be resolved and you must make a request for review by an IRS Appeals Officer. Most of the suggestions in the previous exam blog are applicable to working with IRS Appeals and will not be repeated here. If you are representing a taxpayer in an appeals conference, you should review the previous blog and the suggestions below.
- **June 27, 2017 - Practical Suggestions for Effectively Representing a Taxpayer in an IRS Examination**
Through the years we have developed, or adopted from other practitioners, suggestions about dealing with the IRS in exams. The suggestions below are generalizations, to which there are substantial exceptions. Practitioners that deal with the IRS are bound not only by their individual professional ethics but also by Circular 230. It is important to recognize the significance and import of those rules and to apply not only their letter but also their spirit. The goal of any representative is to get a client out of an IRS examination as quickly as possible.
- **May 30, 2017 - Payroll and Human Resources Departments Beware: An Update on an Identity Theft Scam**
On March 1, 2016 the IRS issued IR-2016-34, alerting "payroll and human resources professionals to beware of an emerging phishing email scheme that purports to be from company executives and requests personal information on employees." Recent information indicates that cybercriminals have increased the use of this phishing email in 2017. Identity theft and phishing are both on the 2017 IRS Dirty Dozen List.
- **April 19, 2017 - An Issue for Real Estate Developers and Their Tax Advisors to Keep An Eye On**
On April 10, 2017, the IRS Chief Counsel's Office issued an Action on Decision (AOD 2017-3) refusing to acquiesce to the Tax Court's and 9th Circuit's decisions in *Shea Homes Inc. v. Commissioner*, 834 F.3d 1061 (9th Cir. 2016), aff'g 142 T.C. 60 (2014). Because of the potential tax benefits associated with the *Shea Homes* decision, real estate developers and their tax advisors should keep an eye on any future developments.
- **April 5, 2017 - TIGTA Report: The IRS Putting Innocent Small Business Owners at Risk in Currency Structuring Seizures and Forfeitures**
On March 30th, the Treasury Inspector General for Tax Administration (TIGTA) released a report titled "Criminal Investigation Enforced Structuring Laws Primarily Against Legal Source Funds and Compromised the Rights of Some Individuals and Businesses." The TIGTA report (the Report) analyzed and made recommendations regarding how IRS Criminal Investigation (CI) administered cases involving possible currency structuring violations of Title 31 U.S.C. Section 5324(a).
- **March 30, 2017 - Second Circuit Decision in *Chai v. Commissioner* Says No Penalties When the IRS Failed to Obtain Written Approval**
On March 20th the U.S. Court of Appeals for the Second Circuit issued an opinion in *Chai v. Commissioner* that could impact every taxpayer who is disputing IRS penalties. Taxpayers with penalty cases pending in Tax Court should review the *Chai* decision as soon as possible and determine its application to their case.



- **March 27, 2017 - TIGTA Recommends That The IRS Pursue More Criminal Employment Tax Cases**
On March 21, 2017, the Treasury Inspector General for Tax Administration (TIGTA) issued a report entitled "A More Focused Strategy is Needed to Effectively Address Egregious Employment Tax Crimes". The report presents the results of TIGTA's evaluation of the IRS civil and criminal enforcement actions regarding payroll tax noncompliance. The report calls employment tax noncompliance a "serious crime" and recommends that the IRS, including Criminal Investigation (CI), "consider a focused strategy to enhance the effectiveness of the IRS's efforts to address egregious employment tax cases". "Egregious employment tax cases" are defined as employers who have 20 or more quarters of delinquent employment taxes. The number of employers with egregious employment tax noncompliance has more than tripled in recent years. As of December 2015, 1.4 million employers owed approximately \$45.6 billion in unpaid employment taxes, interest and penalties.
- **March 15, 2017 - Address IRS Tax Debts Now, Before a Passport is Revoked**
Section 7345 entitled "Revocation or denial of passport in case of certain tax delinquencies" was added to the Internal Revenue Code in late 2015. The IRS has announced that it will begin sending tax debt certifications to the State Department in early 2017 for revocation or denial of passports. Denying or revoking a person's freedom to travel can have devastating effects including disrupting business, impeding or eliminating an individual's ability to generate income and potentially separating families. Therefore, it is imperative that any person with an IRS tax debt who regularly travels internationally or plans to do so, understand when they may become subject to Section 7345, what type of debts can be excluded from Section 7345 and their options if they receive notice of a tax debt certification.
- **February 20, 2017 - Is That a Change in the Wind? The 6th Circuit Rules Against the IRS on the Application of the Substance-Over-Form Doctrine**
On February 16th, the Federal Court of Appeals for the Sixth Circuit issued a very entertaining and interesting opinion in *Summa Holdings Inc. v. Commissioner*, holding that the taxpayers' use of a Domestic International Sales Corporation (DISC) and two Roth IRAs for their congressionally sanctioned purposes - tax avoidance - was permissible. The 6th Circuit opinion reversed a Tax Court decision that upheld an IRS determination that the substance-over-form doctrine allowed the transactions to be re-characterized as dividends to the taxpayers followed by excess Roth IRA contributions. The IRS had argued that the transactions should be re-characterized although it agreed that the taxpayers had complied with the relevant Tax Code provisions and that the purpose of the provisions was to lower taxes.
- **January 30, 2017 - IRS Injured Spouse Relief Provisions**
Last year the Treasury Inspector General For Tax Administration (TIGTA) issued a report on the IRS track record in injured spouse cases. Although similar to the more well-known innocent spouse relief provisions, the injured spouse relief provisions do not relieve the injured spouse of a joint liability on a valid jointly filed return. Instead, the injured spouse provisions allow the injured spouse to request that the IRS return the portion of a joint refund taken to offset a debt of the non-requesting spouse. The background portion of the TIGTA report explains the intent and procedure for filing for injured spouse relief:
- **January 23, 2017 - Payroll Taxes, Worker Misclassification and Options for Resolving IRS Audits**
Employment taxes and worker misclassification continue to be priorities for the IRS and the Tax Division of the Department of Justice. The IRS has announced information sharing agreements with the Department of Labor and state agencies to find businesses that are misclassifying their workers as independent contractors. The DOJ has made employment taxes and worker misclassification priorities for its civil tax and criminal tax sections. It is very important for any business that uses independent contractors to be aware of its options in an IRS employment tax/worker misclassification audit.



- **January 16, 2017 - Dealing with Non-filers**
On November 18, 2016 at the 2016 New England IRS Representation Conference in Ledyard, Connecticut, I had the honor of being on a panel discussion entitled Dealing with Non-filers. The panel covered a wide range of issues--from the routine to the exceptional--encountered by tax professionals when representing taxpayers before the IRS.
- **December 27, 2016 - The IRS Adds Conservation Easements to the List of Tax Avoidance Transactions**
On December 23rd the IRS issued Notice 2017-10 , which adds syndicated conservation easements to the category of transactions that require formal disclosure by investors and advisors to the IRS. Any taxpayer or advisor who is required to make a disclosure but fails to do so could face penalties of up to \$50,000.
- **December 19, 2016 - IRS Alternative Dispute Resolution Options**
In a prior post, I talked about the latest IRS Alternative Dispute Resolution (ADR) program, Fast Track Mediation Collection, which replaced the prior Fast Track Mediation program. In this blog post, I want to talk about some of the other ADR programs that are available to taxpayers as an option for resolving tax disputes on an expedited basis.
- **December 12, 2016 - IRS Introduces New Alternative Dispute Resolution for Taxpayers in Collection**
On November 18, the IRS issued Rev. Proc. 2016-57 which provides guidance for the new Small Business/Self Employed (SBSE) Fast Track Mediation Collection (FTMC). The FTMC replaces the SB/SE Fast Track Mediation which was infrequently used and is now obsolete.
- **November 30, 2016 - The IRS is Considering Adding Conservation Easements to the List of Tax Avoidance Transactions**
Conservation easements are legitimate and very good tax planning transactions for taxpayers who wish to preserve valuable land and wildlife habitats. If the conservation easement is done properly, a taxpayer may be able to claim a substantial charitable contribution deduction pursuant to Section 170. However, due to inflated appraisals, poorly drafted documentation, improper deductions and unscrupulous promoters, the IRS is considering adding syndicated conservation easements to its catalog of "listed transactions".
- **November 28, 2016 - The IRS is Increasing Their Focus on Bitcoin and Other Virtual Currencies**
On November, 17, 2016, the Department of Justice filed a petition in a United States District Court in Northern California asking the court to issue a John Doe Summons to Coinbase, the largest bitcoin exchange in the U.S., asking for the records of all customers who bought virtual currency from Coinbase for the years 2013, 2014 and 2015.
- **October 4, 2016 - Going..Going..Gone. Face-To-Face IRS Appeals Conferences are Disappearing**
Effective October 1, 2016, the IRS has revised the Internal Revenue Manual (IRM) instructing Appeals Officers that most Appeals conferences will be held by telephone instead of in person. The changes to the IRS are in response to the dwindling IRS budget and lack of manpower.
- **September 2, 2016 - Statute of Limitations: The Taxpayer's Ultimate Defense in a Criminal Tax Case**
In a previous post, I discussed the civil statute of limitations (SOL) the IRS has for assessing additional tax, penalties and interest against a taxpayer. In this post, I will briefly discuss the SOL for criminal tax cases and a recent case where the defendant effectively used the SOL as a defense.
- **August 1, 2016 - The Statute of Limitations for Assessment: The Taxpayer's Ultimate Defense to the IRS' Assessment of Additional Tax**
One of the questions taxpayers regularly ask is: How long does the IRS have to propose and assess additional tax? Or as some taxpayers put it, " How long before I can be sure I am safe from the IRS"? In this blog post, I will discuss the general rules relating to the statute of limitations (SOL) on assessment and the exceptions to the general rule.



- July 8, 2016 - IRS Administrative Summons to a Third Party: The Recipient's and Taxpayer's Duties and Rights
In a previous blog post, I discussed the duties and rights of a taxpayer who receives an IRS administrative summons for records or testimony. In this blog post, I will discuss the duties and rights of a third party who receives an IRS summons for records or testimony and the taxpayer's right and duties with regard to a third party summons.
- July 6, 2016 - IRS Administrative Summons to a Taxpayer: The Taxpayer's Duties and Rights
In most IRS examinations, the taxpayer and the IRS prefer an informal information-gathering process with the IRS issuing Information Document Requests (IDRs) and the taxpayer providing responses. However, there are circumstances where the issuance of an IRS administrative summons to the taxpayer for documents and/or testimony becomes necessary. When the IRS issues an administrative summons, it is very important that the taxpayer and the taxpayers' representative understand the taxpayer's duties and rights in responding.
- April 21, 2016 - Captive Insurance and the 5th Amendment
An IRS summons enforcement recommendation was issued by a federal magistrate judge in Massachusetts on April 19th, where the summonsed witness appeared as required, but asserted his 5th Amendment privilege against self-incrimination in response to questions by the IRS. The case has a couple of interesting issues.
- February 25, 2016 - The Latest IRS Scam--The Scammers are Getting a Little Smarter
I had a good friend send me a letter that one of his clients received from the "IRS". The letter is a hoax and another attempt by scammers to take money from people.
- January 27, 2016 - IRS Says File 2015 Tax Returns As Soon As Possible or Criminals Will Do It For You
The IRS head criminal investigator, Richard Weber, had a message for all taxpayers while speaking at a conference on January 25th. "File early before the criminals file for you," Weber said. Weber explained that "current intelligence" indicates that criminal groups have amassed stolen taxpayer identification information to be used to file fraudulent refund claims during the 2016 filing season.
- October 12, 2015 - Using a Qualified Amended Return to Avoid the Accuracy-Related Penalty
When a taxpayer or tax professional discovers an error on a previously filed tax return, the taxpayer usually asks whether and how the error should be corrected. While there is nothing in the Internal Revenue Code or Regulations requiring a taxpayer to amend a tax return, CPAs and other tax professionals have a duty under Circular 230 and ethical rules to advise a taxpayer that an amended tax return should be filed and that failure to do so could result in imposition of penalties. If a taxpayer chooses not to file an amended return, he or she could be subject to an accuracy-related penalty pursuant to IRC Section 6662.
- October 5, 2015 - Are Tax Returns Given to an IRS Agent Considered Filed?
In the typical IRS delinquent tax return examination, the IRS agent will ask that the original delinquent returns be delivered to him or her for filing. Because providing tax returns and other information, such as refund claims, is not considered filing, I will usually file the returns with the IRS Service Center, and provide a copy to the agent with proof of filing. By doing so, I know that a tax return or refund claim has been properly and promptly.
- September 30, 2015 - Tax Sale of Real Property: The Rights and Interests of the Taxpayer and the Purchaser
If you listen to the radio or watch late night TV, you know that the IRS has considerable powers when it comes to collecting unpaid taxes, penalties and interest. Included in these powers is the right to seize and sell real property in which a delinquent taxpayer has an interest, although there are some limits on what real property can be seized and sold by the IRS.



- September 28, 2015 - Section 9100 Relief: A Second Bite at the Apple

In my career, I have received calls from panicked tax professionals who have discovered that they have inadvertently missed a tax election and don't know what to do. When I receive such a call, I tell the caller two things. First, I tell the tax professional to contact his or her malpractice carrier. Second, I tell the caller that there may be a solution, Reg. Sections 301.9100-1 thru 3, which contain rules for allowing for extensions of time for late tax elections. Depending on the circumstances, Section 9100 relief may be automatic or non-automatic.

- July 13, 2015 - Is Time Running Out on Discounts on Transfers of Family Entity Interests? Now May Be The Time to Act.

The IRS may be close to issuing new regulations on valuation that could significantly increase transfer tax costs. As a result, it is prudent for families who are contemplating gifts of family entity and limited partnership interests to make the gifts now, while the valuation discounts are still available.

- July 7, 2015 - The IRS Voluntary Disclosure Program

The federal tax system is a voluntary system that relies on taxpayers to file complete and accurate tax returns. However, the IRS released a study reporting that individuals and businesses underpay their taxes by an estimated 17% each year, resulting in almost \$450 billion of lost tax revenues each year.

- June 9, 2015 - IRS and DOJ representatives made presentations at the NYU's Tax Controversy Forum in New York

On June 5th, a number of IRS and DOJ representatives made presentations at the NYU's Tax Controversy Forum in New York. The following were of interest.

- May 19, 2015 -

Joel Crouch was a speaker at a tax conference sponsored by Texas Bank and Trust in Tyler (May 6th) and Longview (May 19th). Mr. Crouch's topic was "A Discussion of Recent Tax Decisions." A copy of the outline from the presentation is at the following link [Texas Bank and Trust Speech Judicial Update](#).

- April 24, 2015 -

Joel Crouch was a speaker at a tax conference in Lufkin sponsored by First State Bank and Trust. Mr. Crouch's topic was "The Art of IRS Penalty Defense". Mr. Crouch made the same presentation to the Dallas chapter of the American Association of Attorney-CPAs. A copy of the outline from the presentations is at the following link [The Art of IRS Penalty Defense](#).

NOVEMBER 17, 2022

CORPUS CHRISTI ESTATE PLANNING COUNCIL

**IRS ESTATE AND
GIFT TAX EXAMINATIONS**

Prepared and Presented by:

JOEL N. CROUCH, J.D.



901 Main Street, Suite 3700

Dallas, Texas 75202

Direct (214) 749-2456

jcrouch@meadowscollier.com

www.meadowscollier.com

Blog: <https://www.meadowscollier.com/blogs>

The information included in these materials is for discussion purposes only and should not be relied on without seeking individual legal advice.

IRS ESTATE AND GIFT TAX EXAMINATIONS

I.

GOLDEN AGE OF ESTATE PLANNING

- Enormous Gift, Estate and GST tax exemptions
- Large valuation discounts still available
 - a. Failure of 2704 Regs.
 - b. Continued Tax Court and 5th Circuit support for discounts
- Historically low AFR to facilitate family transfers
- Grantor trust authority
- No GRAT limitations
- No claw back of lifetime gifts

II.

WHERE ARE WE?

- The gift, estate, and generation-skipping transfer tax exclusion amount for 2023 is \$12,920,000 or \$25,840,000 for married couples.
- The annual exclusion for gifts for 2023 is \$17,000.
- The gift, estate, and generation-skipping transfer tax exclusion will revert to \$5,000,000 (indexed for inflation) on January 1, 2026.
- The IRS has estimated that there will be 15,000 Forms 706 filed in 2022 with less than 10% taxable.

III.

HOUSE WAYS AND MEANS COMMITTEE SEPTEMBER 2021 TAX PROPOSAL

- The proposal called for a reversion of the gift and estate tax exemption to 2017 levels (\$5,000,000 per person (Indexed for Inflation)).
- The proposal called for the denial of valuation discounts (typically lack of control and lack of marketability) for all “nonbusiness assets”. Nonbusiness assets are defined as passive assets that are held for the production of income and not used in the active conduct of a trade or business.
- The proposal called for all Grantor Trusts to be included in the gross estate of the deemed owner (typically the grantor). Additionally, sales between grantor trusts and their deemed owner would be treated as sales between the owner and a third party.
- The proposal increased from \$750,000 to \$11,700,000 the amount that certain real estate used in farming or a family business may be reduced based on its actual use versus the fair market value.

IV.
2022 GREENBOOK

- Modify income, estate and gift tax rules for certain grantor trusts.
- Reform taxation of capital gains.
- Limit duration of generation-skipping transfer tax exemption.
- Increase top marginal income tax rate for high earners.
- Require consistent valuation of promissory notes.
- Impose minimum income tax on wealthiest taxpayers.
- Raise corporate income tax rates to 28%.
- Prevent basis shifting by related parties through partnerships.
- Tax carried (profits) interests as ordinary income
- Limit deferral of gain from like-kind exchanges.
- Require 100% recapture of depreciation deductions as ordinary income for certain depreciable real property.
- Limit use of donor advised funds to avoid private foundation payout requirement.

V.
INFLATION REDUCTION ACT OF 2022

- No repeal of basis step-up at death.
- No forced recognition of gain at death.
- No limits on annual exclusion gifts.
- No limits on 1031 like-kind exchanges.
- No rollback of \$10,000 SALT deduction cap.
- The corporate book alternative tax would impose a 15% minimum tax on adjusted financial statement income for corporations with average adjusted annual financial statement income over a three-year period in excess of \$1 billion.
- Increased enforcement funding for the IRS.

VI.
THE (UNFORTUNATE) NAME OF THE GAME: UNCERTAINTY

- “Use it or Lose it”: IRS has indicated that a taxpayer’s lifetime exemption (known as the “basic exclusion amount”) amount will be the higher of his allowable use in a particular year of the applicable basic exclusion amount in his year of death.
- Potential retroactivity of proposed legislation (most notably, provisions related to capital gain taxation).
- Formula gifting in light of valuations and applicable remaining exemption amounts.

VII.

POPULAR PLANNING TECHNIQUES

- Grantor Retained Annuity Trusts (GRATs)
- Spousal Lifetime Access Trusts (SLATs)-But be careful about reciprocal trusts
- Sales to Intentionally Defective Grantor Trusts (IDGTs)
- Intra-Family Loans and Refinancing Existing Debt
- Gifts
- Family Limited Partnerships and other Discounted Entities
- Section 678, Beneficiary Defective Income Trust (BDITs) -Proceed with caution
- Family Limited Partnerships and other Discounted Entities

VIII.

TAKING ADVANTAGE OF STEP-UP IN BASIS

- Swaps assets back into estate for basis step-up
- Use court reformation to move assets into estate for basis step-up
- Make distributions to move assets into estate for basis step-up
- Gift appreciated assets to parent with general power of appointment

IX.

INCOME TAX PLANNING

- Consider converting traditional IRAs to Roth IRAs
- Charitable Remainder Unitrusts (CRUTs)
- Private Placement Insurance

X.

ANTI-CLAWBACK REGULATIONS

- Final Regulations issued November 26, 2019 (Treas. Reg. Section 20.2010-1(c))
- In 2026, the current doubled exemption is estimated to revert to \$6,800,000 (estimated value of \$5,000,000 as statutorily indexed for inflation), or “sunset” by the terms of the legislation.
- Creates a special rule to preserve the credit (Basic Exclusion Amount) used on lifetime gifts, to the extent it exceeds the credit available at death. In other words, “use it or (you may) lose it.”
- Anti-Abuse Regulations.
 - Proposed Regulations published April 27, 2022 (Prop. Treas. Reg. Section 20.2010-1(c)(3)).
 - Objective is to limit the application of the Anti-Clawback Regulations in certain situations, preserving the Service’s potential clawback in certain situations.

- Complicated anti-abuse provisions that, in short, recapture the use of the temporarily double gift, estate and GST tax exclusions at death, disallowing transfers that utilized the doubled exemption when interest, control or ownership therein was retained by the donee.

XI.

EXTENSION OF PORTABILITY

- Rev. Proc. 2022-32 (superseding Rev. Proc. 2017-34) issued July 8, 2022.
- Extension of time to elect portability related to deceased spouse's unused exclusion ("DSUE") amount under I.R.C. Section 2010(c)(5)(A).
- Previously under Rev. Proc. 2017-34, if the estate was not required to file estate tax return (under IRC Section 6018(a)), an estate could elect portability (late) until the second anniversary of the decedent's date of death (9 months longer than the extended Form 706 deadline)/
- Under the new rule, if the estate was not required to file an estate tax return under IRS Section 6018(a), an estate may elect portability (late) until the fifth anniversary of the decedent's date of death.
- To obtain relief under Rev. Proc. 2022-32, file a Form 706 and, thereon, indicate "FILED PURSUANT TO REVENUE PROCEDURE 2022-32 TO ELECT PORTABILITY UNDER I.R.C. SECTION 2010(c)(5)(A)".

XII.

PLANNING WITH VIRTUAL ASSETS

- Cryptocurrency presents unique issues to be dealt with in the planning process. The IRS deems virtual currency as property.
- Exchanges will have income tax consequences.
- Gratuitous transfers (gifts) will result in a carryover basis.
- Determination of value for gift and estate tax planning purposes may prove difficult due to the lack of valuation methodology authority.
- Cryptocurrency should be entitled to a new date of death basis adjustment under IRC §1014.
- Retained access of gifted cryptocurrency may create completed gift issues. Consider additional steps to assure relinquishment of dominion and control, such as a completed gift statement.
- Currently, it may be difficult for any fiduciary to hold crypto assets as a trust investment due to its volatility. If the grantor of the Trust desires the Trustee to be able to hold crypto assets as investments, the Trust Agreement should specifically:
 - Allow the investments of cryptocurrency and direct the Trustee to purchase, sell and hold such assets.
 - Waive the prudent investor standard to allow such investments.

- Should consider indemnifying the trustee from liability for holdings such investments.

XIII.

WHAT ABOUT THE FRONT LINES OF IRS ENFORCEMENT – WHAT’S THE VIEW LIKE?

- Valuation discounts to continue to be front and center (and in many cases, the beginning, middle and end of the IRS examination).
- Tax-affecting is routinely, and rigidly, challenged at IRS examination level, although some Appellate Officers have shown a willingness to recognize hazards of litigation on this issue.
 - Tax affecting is a valuation issue most commonly with S corporations, but can apply to any pass-through entity.
 - As it relates to an S corporation, the argument is that S Corp earnings are subject to individual tax rates whether or not they are distributed and that the additional cost should be factored into valuation. The IRS naturally opposes tax affecting.
 - The Tax Court has ruled that tax affecting may be appropriate in some cases, but has not found such a case.
 - The valuation literature, in general, supports tax affecting.
- The IRS continues to challenge transfers using Defined Value Clauses that do not meet the requirements of a Wandry clause.
- The IRS has started to poke around in the implementation of “his” and “her” SLATs and the potential application of the reciprocal trust doctrine.
- IRS Sec. 2036 continues to be the weapon of choice for the IRS, with almost 40 reported cases.
- The IRS argues that although assets are transferred, there is an implied agreement of retained enjoyment or control and the assets should be included in the estate.
- If the IRS is successful, discounts are a moot issue.

XIV.

STRESS TESTING THE ESTATE PLANNING

- Now is the time to stress test the planning. What can we do to backfill and fix the problems before it is too late?
 - Have gift tax returns been filed and do they adequately disclose the gifts?
 - Have all the income tax returns been filed?
 - Do the tax returns, transfer documents and appraisals match?
 - Are the entities in good standing?
 - Are the clients respecting the legitimacy of the entities and following formalities?
 - Is the client relying on distributions from the entity or is it making disproportionate distributions?
 - Is the client commingling personal assets with entity assets (“living of the partnership”) or using partnership assets (vacations at the Aspen condo and Maui pad)?
 - Are there transfer documents evidencing contributions to the entity?

- Have you documented the non-tax purposes for the entity?
- Have you documented adequate and full consideration for the issued entity interests?
 - Contribution Schedule
 - Ownership Percentages
 - Capital Account Ledgers
- Does the client have books and records for the entity?
- Are property taxes and other expenses being paid by the entity?
- Is property liability insurance being paid by the entity?
- Is there any personal use of entity property?
- Is there any commingling of entity assets?
- Has the client retained assets for their support and maintenance?
- Do the partners conduct an annual meeting and prepare minutes?
- If children or trusts own entity interests, have gift tax returns been filed?
- Are there prior sales or other non-gift transactions that have not been disclosed on prior returns? The Agent will request a statement for operating accounts and search for non-disclosed gifts.
- Does client have Crummey letters for gifts? If so, can you establish actual knowledge of gifts by beneficiaries?

XV.
IRS AUDIT TIPS

- Know the process.
- Know when to run cover.
- Never sell yourself short on discounting.
- Know when to play them; know when to (temporarily) fold them.
- Find the weakest link and consider putting it at the front of the chain.
- Save your bullets when expert input is sought by the IRS examiner.
- Know what the examiner can and can't do.
- Know when you need back-up.
- Be ready for a long-distance relationship.
- Be diligent in preparing for post-audit.

XVI.
MOORE V. COMMISSIONER
T.C. MEMO 2020-40

- Taxpayer started negotiations for sale of farm; experienced health event; followed by hospice care.
- Within 3 months, taxpayer settles a series of trusts, forms FLP, finalizes farm sale, sells FLP to dynasty trusts, settles up expenses, and dies.
- The wrinkles:
 - Taxpayer sold the farm within days of forming FLP and with no FLP involvement despite 80% ownership.
 - FLP paid for attorney fees for Taxpayer's estate planning.

- FLP made a series of loans to Taxpayer and his kids; none of which were ever repaid.
- Taxpayer continued to live on and manage farm until death.
- IRS sought to include farm in Taxpayer's gross estate under IRC Sec. 2036.
- Tax Court held that farm was includable under IRC Sec. 2036.
 - Sale of FLP interests served no non-tax purpose.
 - None of the stated boilerplate reasons "fit," as it did not bring the family together and FLP sole asset was sold and put in investment portfolio managed by advisor without any input from surviving family.
 - No evidence of creditor protection needs.
 - Taxpayer's health problems cast a testamentary "light" on transactions.
 - At the very least, implied agreement to retain possession of the farm.
 - Taxpayer used FLP assets to make loans for personal expenses that were never repaid.

XVII.
SMALDINO V. COMMISSIONER
T.C. MEMO 2021-127

- Planning in the context of second marriage, which involved funding of old/cold LLC by Husband, followed by -
 - Transfer of \$5.2 million LLC units to New Wife.
 - Same day, gift of units by New Wife to Dynasty Trust for benefit of step kids.
 - Next day, Husband separately transfers LLC units to Dynasty Trust.
 - Amendment by Husband of family trust to make additional provision for New Wife.
 - In corporate documents, New Wife never shown as member of LLC.
- IRS argued that Husband made direct gift of LLC units to Trust.
- The Husband argued that while part of a prearranged plan, there was documented transfer to the New Wife and that was determinative.
- Based on totality circumstances, Tax Court held direct transfer:
 - LLC agreement had transfer restrictions which were not met.
 - LLC agreement amended post-transfer by "sole member," ignoring intermediate transfers.
 - New Wife never reflected in corporate documents as owner.
 - Use of values in transfer documents revealed that execution occurred months after "effective" date.
 - New Wife testimony indicated that she could not change her mind in making the gift of the LLC units.

- Other issues decided by the Tax Court -
 - Last minute amendment to LLC agreement, to provide for management fee, was sustained and given effect in valuing the entity.
 - Allowed combined LOM/LLC discount of 36%.

XVIII.

NELSON V. COMMISSIONER
128 AFTR 2D 2021-XXXX (5TH CIR. 2021)

- Gift and sale of FLP interest to SLAT using defined value clause.
- “Having a value as determined by qualified appraiser within X days.”
- IRS challenged valuations and proposed gift tax deficiencies.
- Taxpayer argued under clause, smaller FLP interest transferred.
- Tax Court: Value fixed by appraisal; not dependent on value “for gift tax purposes;” no language to deal with re-allocation. No adjustment.
- Fifth Circuit: That’s right.

Joel Crouch, Partner, Meadows Collier Reed Cousins Crouch & Ungerman, LLP.

Joel consults and advises businesses, wealthy individuals and families about their most demanding tax planning, estate planning and IRS controversies. He often works with tax professionals and financial specialists to help develop solutions for their clients. Joel is a Partner in the firm and is Board Certified in Tax Law by the Texas Board of Legal Specialization.

Joel has been recognized as one of the best in his field by Texas Monthly and Law and Politics Magazines by being named a Texas Super Lawyer from 2003 through 2022. He has also been named one of the Best Lawyers in Dallas by D Magazine for the year 2012-2022 and he has also been named to Best Lawyers in America for Tax Law. Joel was recognized as “Lawyer of the Year” in Tax Law for Dallas/Fort Worth in 2022 by Best Lawyers in America©.

Joel is a frequent speaker on procedural and substantive tax issues for legal and accounting professionals. Some of his topics include: Tax Shelter Defense, IRS Examinations, Appeals, Litigation and Collection Strategies, IRS Criminal Investigations, IRS Offshore Activities, IRS Focus on Tax Professionals, Employment Classification, IRS Penalties, and Litigation Partnership Tax Cases. He has also published various articles regarding the IRS and tax procedures.