

# Freedom of Information Act

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## **GLOSSARY OF ACRONYMS**

23C	Assessment Date
ACA	Affordable Care Act (a.k.a. Obamacare)
ACS	Automated Collection System
AO	Appeals Officer
ASED	Assessment Statute Expiration Date
CAF	Centralized Authorization File
CAP	Collection Appeals Program
CID	Criminal Investigation Division
CIS	Collection Information Statement (Form 433)
CDP	Collection Due Process
CNC	Currently-Not-Collectable (a.k.a. “53ing” the account)
CSED	Collection Statute Expiration Date
DIF	Discriminate Index Function
DLN	Document Locator Number
DO	Disclosure Office
DS	Disclosure Specialist
FOIA	Freedom of Information Act
IA	Installment Agreement
IRC	Internal Revenue Code
IRM	Internal Revenue Manual
OIC	Offer-in-Compromise
NRS	Non-Requesting Spouse (Innocent Spouse Case)
PLR	Private Letter Ruling
POA	Power-of-Attorney (Form 2848)
RA	Revenue Agent (Field Examiner)
RAR	Reviewing Agents Report (Audit Results – Form 4549)
Rev. Proc.	Revenue Procedure
Rev. Rul.	Revenue Ruling
RO	Revenue Officer (Collections)
RS	Requesting Spouse (Innocent Spouse Case)
RSED	Refund Statute Expiration Date
SO	Settlement Officer (Collection Appeals)
TC	Tax Court (Regular) Opinion
TC Summ.	Tax Court Summary Opinion
TCM	Tax Court Memorandum Opinion
TCO	Tax Compliance Officer (Office Examiner)
Treas. Reg.	Treasury Regulation



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## Overview and Objectives

The purpose of this course is to introduce to new (and maybe some not-so-new) tax controversy practitioners, a *powerful* tool that will help them take their tax representation practice to a higher level of proficiency.

Accessing IRS information can sometimes be a “tug-of-war” between you and the IRS personnel and/or division with which you are currently dealing. This tool will allow you to gain access to valuable information that the IRS Revenue Agent, Appeals Officer, and/or Revenue Officer has in his/her files, which may give you a slight edge in your examination and/or appeals cases.

After completing this session, you should feel confident with knowing when and how to prepare a FOIA request and analyzing the documents received.

## The Freedom of Information Act – A (Short) History Lesson

The Freedom of Information Act (FOIA) was originally enacted in 1966 and went into effect in 1967. See 5 USC § 552. The FOIA is based on the presumption that the government and its’ information belong to the people, and that the government should be as transparent as possible.

The FOIA established an effective statutory right that records of the Executive Branch of the United States Government are accessible to the people. This was not always the policy regarding disclosure of federal information. Before the FOIA was enacted in 1966, the Administrative Procedure Act governed the disclosure of agency records to the public and was viewed as a withholding statute rather than a disclosure statute.

The FOIA sets standards for determining which records must be made available for public inspection and which records (or portions of records) should or may be withheld from disclosure. The law also provides administrative and judicial remedies for those denied access to records. Above all, the statute requires that Federal agencies provide the fullest possible disclosure of information to the public.

The FOIA carries the presumption of disclosure, which means an agency that receives a FOIA request is required to disclose relevant records, unless such records come within one or more of the nine specific and narrowly defined exemptions or three exclusions contained in the FOIA statute. The burden is on the government to show why a document cannot be released. This right of access is enforceable in federal court.

All IRS records are subject to request. However, the FOIA does not require the IRS to release all documents. The IRS may withhold information pursuant to the nine exemptions and/or three exclusions contained in the FOIA statute.

The FOIA applies to all records either created or obtained by the IRS or under IRS control at the time of the FOIA request. The FOIA applies only to existing records. The FOIA does not require the IRS to collect information it does not have, or to research or analyze data for the requester. The IRS is only required to look for an existing record or document in response to the request. The IRS is not obligated to create a new record to comply with a FOIA request. However, when records are maintained in a computer, the IRS may be required to retrieve information in response to a FOIA request. The process of retrieving information may result in the creation of a new document, when the data is printed out on paper or written on a computer tape or disk.

The essential feature of both the FOIA and the Privacy Act is that they make government agencies, including the IRS, accountable for information and set forth disclosure policies and practices. While neither law grants an absolute right to examine government documents, both laws establish the right to request records and to receive a response to the request. If a record cannot be released, the requester is entitled to the reason for the denial. The requester also has a right to appeal the denial and, if necessary, to challenge it in court. These procedural rights granted by the FOIA and the Privacy Act make the laws valuable and workable.

## **Why use a FOIA Request?**

There are numerous instances in which a FOIA request may be of great use to you in representing a taxpayer before the IRS. Here are just a few examples where the author has found that a FOIA request has been very helpful:

- Audit Checklist - whether in appeals or in examinations, it is useful to obtain, as it will show what the agent is (or was) looking for.
- Review Notes and Supervisor Comments - generally available after the audit. Useful to find out the internal thought processes of the Revenue Agents on the issues.
- History Sheets/Activity Reports - a day by day catalog of who the agent spoke to and what was said to the agent. Useful for leads to third parties.
- Revenue Agent Workpapers (Forms 4700 and 4700A) - the nuts and bolts of the audit - what happened and why. It is almost always essential, particularly when you do not represent the client from the outset of the audit.
- Revenue Agent Report Transmittal (Form 4665) - provides a place for information of a "confidential nature". While the IRM states, "Never send the taxpayer or power of attorney copies of Form 4665", it does not control where the FOIA applies. See IRM 4.4.7.2.2.5.

- Revenue Agent's Rebuttal (Form 5072) - generally prepared by the Revenue Agent after receipt of a protest from examinations. It explains the reason(s) why the Revenue Agent disagreed with the taxpayer's reason(s) given in the protest and is an invaluable roadmap in preparing to take a case to Appeals. See IRM 4.10.8.11.9.3.
- Revenue Rulings and Background Documents - very helpful when the agent has asserted that a particular revenue ruling applies. Get the background documents and analysis.
- Last Known Address Issues – a statutory notice of deficiency (a.k.a. 90 day letter) must be sent to taxpayer's last known address to be valid. See IRC § 6212(b). Neither ACS, nor the Revenue Officer, is likely to have the audit file that would contain the statutory notice. A FOIA request can be used to determine whether notice was properly sent, and if not, take appropriate action.
- Third-Party Statements and Communications - this would include letters, affidavits, bank statements, bank slips, and canceled checks, which the IRS obtained.
- Appeal Transmittal Memorandum and Supporting Statement - prepared when Appeals closes out a case. Useful at trial or when a subsequent year is audited.
- CAF Client Listing – very helpful to periodically check your CAF file for clients that you no longer represent but for whom the IRS still has your POA on file.

## Preparing a FOIA Request

The FOIA request must be in writing to the office with jurisdiction over the records sought.

The FOIA provides that any person may make a request for IRS records. The request must meet the following criteria:

- Your FOIA request must include the address of the requester so that the IRS can properly respond.
- Your FOIA request should be addressed to the correct IRS Disclosure Office, and you should also write "FOIA" on your envelope.
  - For the most current list of disclosure offices and contacts:  
See: <http://www.irs.gov/uac/IRS-Disclosure-Offices>
- Your FOIA request must state that your request is being made pursuant to the Freedom of Information Act, and/or Privacy Act, if personal records are requested.

- Your FOIA request must reasonably describe the records being requested as specifically as possible. If possible, you should give the name, subject matter, location and years at issue of the requested documents. You must state whether you wish to inspect the records or desire to have a copy made and furnished without first inspecting those records. If you attach copies of any correspondence pertaining to the documents you are requesting, the IRS Disclosure Office may be able to respond to your request quicker.
- Your FOIA request must state what category of requester you are, so the IRS Disclosure Officer can properly determine any applicable fees. The categories of requesters are:
  - Commercial use requesters,
  - Media requesters,
  - Educational institutions and non-commercial scientific institutional requesters,
  - Others (including individual requesters).
  - For more information on the categories, please see 26 CFR 601.702 (f)(3),

Your FOIA request may require proof of your identity and your authority to access the records, depending on the nature of the records you are requesting. To protect your privacy, the IRS will not, without proof of your identity, release to you, or anyone else, documents that should be available **only** to you.

If the information you are requesting is available to the general public, you do not need to provide proof of identity or authority to access those records.

If the records that you are requesting are confidential and not available to the general public (i.e., subject to the Privacy Act or IRC § 6103), **YOU MUST** submit proof of identity and proof of your authority to access the information.

Your FOIA request must include an agreement to pay all fees that might be incurred through processing your request.

- *NOTE: You may wish to specify an upper limit of the amount of money you are willing to pay to satisfy your request.*

Your FOIA request must be in writing and signed by the person making the request, (*stamped or digital signatures are not acceptable*).

- **PRACTICE NOTE:** While either Form 8821 (Tax Information Authorization) or Form 2848 (Power Of Attorney) can be used to satisfy the requirement to show “proof of authority”, the IRS must have received the Form 8821 within 120 days of the date the taxpayer signed and dated the form. Form 2848 has no such restrictions. See IRM 11.3.13.5 (08-14-2013).

## Preparing a FOIA Request – Optional Items (*but Recommended*)

Several optional (but *highly* recommend) items may be included in your FOIA request:

1. The requestor's telephone number allows the IRS employee processing a request to speak with the requester, if necessary.
  - **PRACTICE NOTE:** The IRS Disclosure Officer may need to contact you to further clarify what you are seeking or to work with you in addressing any possible fees. By providing this information, the IRS may be able to respond to your request more quickly.
2. A limitation amount for the maximum fees the requester is willing to pay is commonly included. The requester will be notified in advance if the charges will exceed the specified amount, and may withdraw their request. This may also avoid unnecessary delays and additional correspondence.
3. A request for a waiver or a reduction of fees must be waived or reduced if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government, and is not primarily in the commercial interest of the requester. Fee waiver decisions are separate and distinct from decisions about the amount of fees that a requester can be charged.
4. Specification of the form or format which the requested material is sought is an important consideration if a requester desires the responsive information in a particular format. For example, information maintained by IRS in an electronic form can be provided in that same or a similar form, such as on a CD-ROM, flash/thumb drive. FOIA requires agencies to help requesters by providing information in the form requested, including requests for electronic records, if the IRS can readily reproduce it in that form.
5. If known, the last known location of the requested documents and/or file.
6. Expedited Processing. A request for expedited processing by showing a "compelling need" for a speedy response. If IRS accepts the reason(s), then the FOIA request **MUST BE** processed in 10 calendar days. See IRM 11.3.13.8.4. The Treas. Reg. authorizes expedited processing where a requester demonstrates a "compelling need" for quick response. A "compelling need" warranting faster FOIA processing exists in three categories of circumstances.
  - That the failure to obtain the records within an expedited deadline could reasonably be expected to pose an imminent threat to an individual's life or physical safety. A threat to an individual's life or physical safety qualifying for expedited access should be imminent. A reasonable person

should be able to appreciate that a delay in obtaining the requested information poses such a threat.

- A request by someone "primarily engaged in disseminating information" and "a matter of current exigency to the American public." The standard of "primarily engaged" requires that information dissemination be the main activity of the requester, although it need not be his or her sole occupation. A requester who only incidentally engages in information dissemination, besides other activities, would not satisfy this requirement.
- The loss of substantial "due process" rights. For more information see section (c)(6)(A)-(C) of the FOIA. The standard of "current exigency" requires that a reasonable person would conclude that the consequences of delaying a response to a FOIA request would compromise a significant recognized interest to and throughout the American general public. The public's right to know about government activity generally, although a significant and important value, would not by itself be sufficient to satisfy this standard.

➤ **PRACTICE NOTE:** See Appendix D for sample language.

## IRS Review of FOIA Requests

The IRS has 20 *working* days from the date of receipt, to decide whether it will comply with the FOIA request. See Treas. Reg. 601.702(c)(9)(ii). If a request is denied in whole or in part, the IRS must tell the requester the reasons for the denial. Under 5 U.S.C.A §552(a)(6)(A)(i) of the FOIA, the IRS must also tell the requester that there is a right to appeal any adverse determination to the head of the IRS or his or her designee.

➤ **PRACTICE NOTE:** *This 20 day rule means that the response must be dated within 20 working days; it is not required that the taxpayer/representative receive a response within the 20 days. As a practical matter, the Service usually needs more time to respond to FOIA requests than 20 days and will request additional time. If the taxpayer or his/her representative does not allow the IRS the additional time, the request will be denied. Waiting 6 to 8 weeks to receive the actual documents pursuant to the FOIA request is not unusual.*

The FOIA permits the IRS to extend the 20-day statutory time limit by 10 additional days in "unusual circumstances". See Treas. Reg. 601.702(c)(11)(i)(A)(1)-(4). These "unusual circumstances" include the need to collect records from field locations, review large numbers of records, and consult with other agencies. The IRS is required to notify the requester whenever an extension is invoked. The IRS may also make a showing of exceptional circumstances based on the amount of material classified, based upon the resources being devoted to the review of material of public interest, or

based upon the number of requests for records by courts or administrative tribunals. A court also shall consider a requester's unwillingness to reasonably limit the scope of his or her request or to agree upon a processing timeframe prior to seeking judicial review.

If additional time is needed to process the request, the IRS will notify the requester and provide the requester an opportunity to limit the scope of the request or arrange for an alternative time frame for processing the request.

If the IRS fails to comply with the time limitations set forth in Treas. Reg. 601.702 (c)(9), (10) or (11)(i), any person making a request for records having satisfied the requirements of Treas. Reg. 601.702 (c)(4)(i)(A) through (I) of this section shall be deemed to have exhausted administrative remedies with respect to such request. A person may initiate suit in Federal District Court when the IRS has failed to comply with these time limits.

If the IRS denies a request, an administrative appeal can be filed within 35 days after the date of the letter denying the request. See Treas. Reg. 601.702(c)(10) for the information to include in the appeal.

Judicial review is available if the IRS denies the taxpayer's administrative appeal, or fails to act on it within 20 business days of its' receipt.

- **Practice Tip:** Before appealing and/or litigating the IRS denial, it is helpful to request a *Vaughn Index*. The Vaughn Index (named for the Vaughn Case, Vaughn v. Rosen, 484 F.2d 820 (D.C. Cir. 1973)) is a privilege log that provides a means to assess whether the denial was improper, as well as insight into the direction, scope, and nature of the investigation. The Vaughn Index must provide the following details:

- identify each item withheld
- provide a statutory basis of the exemption
- explain how disclosure would be damaging

## **FOIA Fees (Paper) and Fee Waivers**

FOIA requesters may have to pay fees covering some or all of the costs of processing their requests.

The FOIA establishes three types of fees that may be charged:

- Fees may be imposed to recover the cost of copying documents. The IRS has a fixed price for making copies using copying machines. A requester is usually charged the actual cost of copying computer tapes, photographs, and other nonstandard records.



- Fees may also be imposed to recover the costs of searching for documents. This includes the time spent looking for material responsive to a request. The FOIA defines "search" as a "review, manually or by automated means," of IRS "records for the purpose of locating those records which are responsive to a request." Under the FOIA, the IRS need not create documents that do not exist. However, the IRS must make reasonable efforts to search for records. With respect to electronic records, this may require the application of codes or some form of programming to retrieve the information, unless such efforts would significantly interfere with the operation of the IRS' automated information system.
- Fees may be charged to recover review costs from commercial requesters only. Review is the process of examining documents to determine whether any portion is exempt from disclosure.

Review charges only include costs incurred during the initial examination of a document. The IRS may not charge for any costs incurred in resolving issues of law or policy that may arise while processing a request.

Different fees apply to different categories of requesters. The categories of FOIA requesters are:

- Representatives of the news media, and educational or noncommercial scientific institutions, whose purpose is scholarly or scientific research. A requester in this category, who is not seeking records for commercial use, can only be billed for reasonable standard document duplication charges. A request for information from a representative of the news media is not considered to be for commercial use, if the request is in support of news gathering.
- Commercial requesters - FOIA requesters seeking records for commercial use. Commercial use is not defined in the law, but it generally includes profit making activities. A commercial user can be charged reasonable standard charges for document duplication, search, and review.
- Other requesters – this includes everyone not in the first two categories. People seeking information for personal use, public interest groups, and nonprofit organizations are examples of requesters who fall into the third group. Charges for these requesters are limited to reasonable standard charges for document duplication and search. Review costs may not be charged. We are considered other requesters as representatives for our clients.

Small requests (the release of 100 or fewer pages) are free for all requesters except commercial requesters. There is no charge for the first 2 hours of search time and for the first 100 pages of documents. A noncommercial requester who limits a request to a

small number of easily found records would not pay any fees at all. However, if a requester breaks up a large request into smaller requests in order to avoid fees, the smaller requests may be aggregated and charged as though only one request had been made.

The law also prevents agencies from charging fees if the cost of collecting the fee would exceed the amount collected. This limitation applies to all requests, including those seeking documents for commercial use. Thus, if the allowable charges for any FOIA request are less than \$10.00, no fees are imposed.

The IRS sets charges for duplication, search, and review based on its' own costs. The IRS also sets its own threshold for minimum charges. See Appendix A - IRS Fee Schedule.

The FOIA requires that the IRS waive or reduce fees, if disclosure of the information is in the public interest, because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.

Determinations about fee categories are separate and distinct from determinations about fee waivers. For example, a requester determined to be a news reporter will only be charged duplication fees. However, the requester is not automatically entitled to a waiver of those fees upon request. A reporter who seeks a fee waiver must demonstrate that the request also meets the standards for waivers. Normally, only after a requester's fee category has been determined, does the issue of a fee waiver arise. Any requester who seeks a fee waiver should ask for a waiver in the original request letter. However, a request for a waiver can be made at a later time. The requester should describe how disclosure would contribute significantly to the public understanding of the operations or activities of the IRS.

Any requester may ask for a fee waiver. Some will find it easier to qualify than others. A news reporter who is only charged duplication costs may still ask that the charges be waived because of the public benefits that will result from disclosure. A representative of the news media, a scholar, or a public interest group is more likely to qualify for a waiver of fees. A commercial user may find it difficult to qualify for waivers.

The eligibility of other requesters will vary. A key element in qualifying for a fee waiver is the relationship of the information to the public understanding of the operations or activities of IRS. Another important factor is the ability of the requester to convey that information to other interested members of the public.

A requester is not eligible for a fee waiver solely because of indigence, or the inability to pay.

## **FOIA Fees (Electronic)**

Beginning on April 1, 2013, the Disclosure Office:

Will not charge a fee for the cost of transmitting or copying files to electronic media containing fewer than 1000 pages;

Will assess a \$25 fee to cover the cost of transmitting and copying files to the electronic media containing 1000 pages or more; and

Will assess an additional \$25 fee for each additional CD, DVD, or other storage device needed, to account for the additional transmitting and copying costs.

Special Situations: if you request a storage device other than CDs or DVDs that cost \$5 or more each, the service will bill you to recover this additional cost.

Example: If you request that the documents be put on a flash instead of the CD and the cost of the flash drive is \$15, the service will add this cost to \$25 fee and bill you a total fee of \$40

## **Reasons Access May Be Denied Under the FOIA**

The IRS may withhold an IRS record that falls under one of the FOIA's nine statutory exemptions or by one of its' three exclusions.

### **FOIA Exemptions**

The exemptions protect against the disclosure of information that would harm the following: national security, the privacy of individuals, the proprietary interests of business, the functioning of the government, and other important recognized interests.

When a record contains some information that qualifies as exempt, the entire record is not necessarily exempt. Instead, the FOIA specifically provides that any reasonably segregable portions of a record must be provided to a requester after the deletion of the portions that are exempt. The FOIA requires the IRS to identify the location of deletions in the released portion of the record and, where technologically feasible, to show the deletion at the place on the record where the deletion was made, unless including that indication would harm an interest protected by an exemption.

### **Exemption 1 - Classified Documents Pertaining to National Defense and Foreign Policy**

The first FOIA exemption permits the withholding of matters specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy and which are in fact properly classified under such executive order. The IRS does not generally deal with these types of matters, thus this exemption is rarely used.

### **Exemption 2 - Internal Personnel Rules and Practices**

The second FOIA exemption covers matters that are related to the IRS's internal personnel rules and practices. As interpreted by the courts, there are two separate classes of documents that are generally held to fall within exemption 2.

The information relating to personnel rules or internal IRS practices may be exempt if it is a trivial administrative matter of no genuine public interest. More substantial internal IRS matters may be exempt if disclosure would risk circumvention of a legal requirement.

### **Exemption 3 - Information Exempt Under Other Laws**

The third FOIA exemption incorporates into the FOIA, other laws that restrict the availability of information. To qualify under this exemption, a statute must require that matters be withheld from the public in such a manner as to leave no discretion on the issue. Information may also be exempt if the other law establishes particular criteria for withholding or refers to particular types of matters to be withheld. One example of a qualifying statute is IRC § 6103, which governs the disclosure of tax returns and return information. By law, tax records may not be disclosed to any individual, unless authorized by IRC § 6103.

### **Exemption 4 - Trade Secrets and Confidential Commercial or Financial Information**

The fourth FOIA exemption protects from public disclosure two types of information: Trade secrets and confidential commercial or financial information. A trade secret has been narrowly defined by the courts under the FOIA as a commercially valuable plan, formula, process, or device that is used for making, preparing, compounding or processing trade commodities and that can be said to be the end product of either innovation or substantial effort. The second type of protected data is commercial or financial information obtained from a person that is privileged or confidential.

### **Exemption 5 - Inter-Agency or Intra-Agency Memorandums or Letters**

The fifth FOIA exemption applies to inter-agency or intra-agency memorandums or letters, which would not be available by law to a party other than an agency in litigation with the agency. An example might be a letter from one IRS office to another about a decision that has not yet been adopted by the agency.

One purpose of the fifth exemption is to safeguard the deliberative policymaking process of government (the deliberative process privilege). The exemption encourages frank discussion of policy matters between IRS officials by allowing certain pre-decisional, deliberative documents to be withheld from public disclosure. The exemption also protects against premature disclosure of deliberations before final adoption of an agency policy or position.

While the policy behind the deliberative process privilege is well accepted, the application of the exemption is complicated. For example, the exemption protects the policymaking process, but it does not generally protect purely factual information related to the policy process, which is protected under the deliberative process privilege. The deliberative process privilege distinguishes between documents that are pre-decisional and post-decisional. Once a policy is adopted, the public has a greater interest in knowing the basis for the decision. Therefore, the deliberative process privilege does not ordinarily apply to post-decisional documents.

The exemption also incorporates other privileges that apply in litigation involving the government, including the attorney client and work product privileges. For example, certain documents prepared by the IRS lawyers might be withheld in the same way that documents prepared by private lawyers for clients are not available through discovery in civil litigation.

### **Exemption 6 - Personal Privacy**

The sixth FOIA exemption covers personnel, medical, and similar files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. This exemption protects the privacy interests of individuals by allowing the IRS to withhold personal data kept in its files, where there is an expectation of privacy. Only individuals have privacy interests. Corporations and business associations have no privacy rights under this sixth exemption, with the exception of closely held corporations or similar business entities. Once it has been determined that a personal privacy interest is threatened by a requested disclosure, the exemption requires agencies to strike a balance between an individual's privacy interest and the public's interest in disclosure. The Privacy Act of 1974 also regulates the disclosure of personal information about an individual. The IRS will automatically consider a request for personal information under both the FOIA and the Privacy Act and will rely on the statute that provides the greater access.

### **Exemption 7 - Law Enforcement**

The seventh FOIA exemption allows agencies to withhold records or information compiled for law enforcement purposes, but only to the extent that the production of such records would cause one of the six specifically enumerated harms described below:

- Exemption (7)(A) allows the withholding of a law enforcement record that could reasonably be expected to interfere with enforcement proceedings. This exemption protects an active law enforcement investigation from interference through premature disclosure.
- Exemption (7)(B) allows the withholding of law enforcement information that would deprive a person of a right to a fair trial or an impartial adjudication.
- Exemption (7)(C) recognizes that individuals have a privacy interest in information maintained in law enforcement files. If the disclosure of information could reasonably be expected to constitute an unwarranted invasion of personal privacy, the information may be exempt from disclosure.
- Exemption (7)(D) protects the identity of confidential sources. Information that could reasonably be expected to reveal the identity of a confidential source is exempt. A confidential source can include a state, local, or foreign agency or authority, or a private institution that furnished information on a confidential basis. In addition, the exemption protects information furnished by a confidential source if the data was compiled by a criminal law enforcement authority during a criminal investigation.
- Exemption (7)(E) protects from disclosure information that would reveal techniques and procedures for law enforcement investigations or prosecutions or that would disclose guidelines for law enforcement investigations or prosecutions if disclosure of the information could reasonably be expected to risk circumvention of the law.
- Exemption (7)(F) protects law enforcement information that could reasonably be expected to endanger the life or physical safety of any individual.

### **Exemption 8 - Financial Institutions**

The eighth FOIA exemption protects information that is contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of, an agency responsible for the regulation or supervision of financial institutions (such as the FDIC, the Federal Reserve, or similar agencies).

### **Exemption 9 - Geological Information**

The ninth FOIA exemption covers geological and geophysical information, data, and maps, concerning wells.

## **FOIA Exclusions**

The FOIA also contains three special protection provisions that expressly authorize federal law enforcement agencies for especially sensitive records under certain specified circumstances to treat the records as not subject to the FOIA. The IRS may not be required to confirm the existence of these categories of records. If these records are requested, the IRS may respond that there are no records responsive to the request. However, these exclusions do not broaden the authority of the IRS to withhold documents from the public. The exclusions are only applicable to information that is otherwise exempt from disclosure.

### **Exclusion 1**

The first exclusion may be used when a request seeks information described in subsection (b)(7)(A) of the FOIA and meets the following requirements:

- The investigation in question must involve a possible violation of criminal law.
- There must be reason to believe that the subject of the investigation is not already aware that the investigation is underway.
- Disclosure of the existence of the records could reasonably be expected to interfere with enforcement proceedings.

When all of these conditions exist, the IRS may respond to a FOIA request for investigatory records as if the records are not subject to the requirements of the FOIA. In other words, the IRS response does not have to reveal that it is conducting an investigation.

### **Exclusion 2**

The second exclusion applies to informant records maintained by IRS criminal law enforcement filed under the informant's name or personal identifier. The IRS is not required to confirm the existence of these records unless the informant's status has been officially confirmed. This exclusion helps agencies protect the identity of confidential informants.

### **Exclusion 3**

The third exclusion only applies to records maintained by the Federal Bureau of Investigation, which pertain to foreign intelligence, counterintelligence, or international terrorism. When the existence of these types of records is classified, the FBI may treat the records as not subject to the requirements of the FOIA.

Requesters who believe that records were improperly withheld because of the exclusions can seek judicial review by filing suit in Federal District Court.

## Administrative Appeal Procedures

Whenever a FOIA request is denied, the IRS must inform the requester of the reasons for the denial and the requester's right to appeal the denial to the head of the agency. A requester may appeal the withholding of a document or denial of a fee waiver request. A requester may contest the type or amount of fees that were charged. A requester may appeal any other type of adverse determination under the FOIA. However, a requester may not file an administrative appeal for the lack of a timely response. A requester can also appeal because the IRS failed to conduct an adequate search for the documents that were requested.

A person whose request was granted in part and denied in part may appeal the portion that was denied. If the IRS has agreed to disclose some but not all requested documents, the filing of an appeal does not affect the release of the documents that are disclosable.

A FOIA appeal is an administrative appeal. The procedural requirements for filing an appeal are found at Treasury Regulation 601.702 (c)(10). There is no charge for filing an administrative appeal.

An appeal is filed by sending a letter to:

IRS Appeals  
Attn: FOIA Appeals  
5045 E. Butler Ave.  
M/Stop 55201  
Fresno, CA 93727-5136

The letter must identify the FOIA request that is being appealed. The envelope containing the letter of appeal should be marked in the lower left hand corner with the words "Freedom of Information Act Appeal."

The IRS assigns a number to all FOIA requests that are received. This number should be included in the appeal letter, along with the name and address of the requester. It is a common practice to include a copy of the IRS's initial decision letter as part of the appeal, but this is not necessarily required. It can also be helpful for the requester to include a telephone number in the appeal letter.

The request for appeals must be made in writing, and must include all the following (per IRM 8.7.14.5):

- Reasonably describe the records requested,
- Include an address at which the requester desires to be notified of the determination of the appeal,



- Specify the date of the initial FOIA request,
- The office to which the request was submitted, and where possible,
- Include a copy of the initial FOIA request, and
- A copy of the letter of notification denying the request.

An appeal will normally include the requester's arguments supporting disclosure of the documents. A requester may include any facts or any arguments supporting the case for reversing the initial decision. However, an appeal letter does not have to contain any arguments at all. It is sufficient to state that the IRS's initial decision is being appealed.

The FOIA regulations require that an appeal be postmarked within 35 days after the date of the letter denying access to the information and within 35 days of the date of other adverse determinations as described in Treas. Reg. 601.702 (c)(10). An administrative appeal for denial of a request for expedited processing must be made by a letter postmarked within 10 days after the date of the response letter denying expedited processing.

The IRS is required to make a decision on an appeal within 20 business days after the date of receipt of the appeal unless extended pursuant to Treas. Reg. 601.702(c)(11)(i). It is possible for the IRS to extend the time limits by an additional 10 days under unusual circumstances (see Treas. Reg. 601-702(c)(11)(i)). If the IRS fails to comply with the time limitations, the FOIA requester shall be deemed to have exhausted administrative remedies and may proceed with a judicial appeal in a Federal District Court.

## **Filing a Judicial Appeal**

Treas. Reg. 601.702 (c)(13) sets forth the circumstances under which a FOIA requester may proceed with a judicial appeal. For example, when an administrative appeal is denied, a requester has the right to appeal the denial in court. When a requester goes to court, the burden of justifying the withholding of documents is on the IRS.

Most requesters require the assistance of an attorney to file a judicial appeal. A person who files a lawsuit and substantially prevails may be awarded reasonable attorney fees and litigation costs reasonably incurred. Some requesters may be able to handle their own case without an attorney.

Since this is not a litigation guide, details of the judicial appeal process have not been included. Anyone considering filing a FOIA lawsuit can begin by reading the provisions of the FOIA on judicial review.

## Appendix A – FOIA Fee Schedule (Paper)

Type of Request	Type of Charge	Price
Commercial requesters	Copying charges	\$.20 per page.
	Search charges	\$41.00 per hour or fraction of an hour (charges for computer searches may include search time expended by employees plus the actual direct costs to the IRS for performing the electronic search such as computer search time, runs, and the operator's salary).
	Review charges	\$45.00 per hour or fraction of an hour.
	Minimum charge	No fee charged if total charges are \$25.00 or less.
Media requesters	Copying charges	No charge for first 100 pages; \$.20 per page thereafter.
	Minimum charge	No fee charged if total charges are \$25.00 or less.
Educational or Non- commercial Scientific institution requesters	Copying charges	No charge for first 100 pages; \$.20 per page thereafter.
	Minimum charge	No fee charged if total charges are \$25.00 or less.
Other requestors  (Individuals seeking records for their own use)	Copying charges	No charge for first 100 pages; \$.20 per page thereafter.
	Search charges	No charge for first 2 hours (or equivalent computer search cost); \$41.00 per hour or fraction of an hour plus any direct electronic search costs thereafter.
	Minimum charge	No fee charged if total charges are \$25.00 or less.
Other Charges	<p>Fees may be assessed at actual cost for any request that requires special services or materials.</p> <p>These services are provided at the discretion of the IRS and may include: certification fees (\$1.00 per document certified); shipping costs; employee transportation; contractor duplication costs; video tapes; computer disks; and shipping, etc. The charge for a copy of tax return as filed is \$57.00.</p>	

## **FOIA Fee Schedule (Electronic)**

As per an IRS internal memo, the service will use the following fee structure for all requested that are fulfilled in electronic format in lieu of paper.

Beginning on April 1, 2013, the Disclosure Office:

Will not charge a fee for the course of transmitting or copying files to electronic media containing fewer than 1000 pages;

Will assess a \$25 fee to cover the cost of transmitting and copying files to the electronic media containing 1000 pages or more; and

Will assess an additional \$25 fee for each additional CD, DVD, or other storage device, needed to account for the additional transmitting and copying costs.

Special Situations: if you request a storage device other than CDs or DVDs that cost \$5 or more each, the service will bill you to recover this additional cost.

Example: If you request that the documents be put on a flash drive instead of the CD and the cost of the flash drive is \$15, the service will add this cost to \$25 fee and bill you a total fee of \$40.

## Appendix B – Sample FOIA Request “Simple”

Your name or your company's name  
Your address or your company's address  
Your phone number (optional)

Date

Internal Revenue Service  
[Your local Disclosure Office address]

Dear Disclosure Officer:

This is a request under the Freedom of Information Act.

I request that a copy of the following documents (identify the documents or information as specifically as possible) be provided to me. I do not wish to inspect the documents first.

In order to determine my status for the applicability of fees, you should know that I am (insert a suitable description of the requester and the purpose of the request).

[An “**Other**” **Requester** seeking information for non-commercial or personal use.]

As proof of identity I am including a photocopy of my driver’s license, notarized declaration, sworn statement, etc.

I am willing to pay fees for this request up to a maximum of \$XX.XX. If you estimate that the fees will exceed this limit, please inform me first.

Thank you for your consideration of this request.

Sincerely,

Your Signature

## Appendix C – Sample FOIA Request “Complex”

VIA FAX TO 877.891.6035

<DATE>

IRS FOIA Request  
Disclosure Scanning Operation – Stop 93A  
PO Box 621506  
Atlanta, GA 30362-3006

**RE: Request for Records Under the Freedom of Information Act 5 U.S.C. § 552**

**Taxpayer:** <NAME>  
**SSN:** <SSN>  
**Type:** Personal Income Tax  
**Form:** <YEARS>

Dear Sir or Madame:

We represent the above referenced taxpayer, and have enclosed a copy of a Power of Attorney regarding our representation.

Pursuant to the provisions of the Privacy Act of 1974, 5 U.S.C. § 552A, the Freedom of Information Act, 5 U.S.C. § 552, as amended, on behalf of our client(s), we request copies of the following documents and/or records of the Internal Revenue Service for the year(s) set forth above:

1. All files relevant to the personal income tax audit for the taxpayer <NAME>, SSN: <SSN>, including, but not limited to, payer information, and/or any third party information requested and/or received.
2. All internal documents and/or forms relevant to the audit, including, but not limited to, Form(s) 4665 (Report Transmittal), Form 5072 (Examiner's Rebuttal), Form(s) 4549, Form(s) 4700, Form(s) 872, 872-A or 872-T, Form(s) 886-A, Form(s) 895, workpapers, correspondence, memorandums, notes, history/activity sheets and all other papers maintained by the Internal Revenue Service and/or Revenue Agent(s) and/or Tax Compliance Officer(s) and/or Tax Specialist(s) with respect to the taxpayer(s).
3. Report summarizing Examination changes or equivalent report of adjustments (where applicable) including, but not limited to, Form 4549 (Income Tax Examination Changes); Form 4549-A (Income Tax Discrepancy Adjustments); Form 5278 (Statement – Income Tax Changes); Form 4667 (Examination Changes – Federal Unemployment Tax), Form 4668 (Employment Tax Examination Changes Report), Form 2504 (Agreement to Assessment and Collection of Additional Tax and Acceptance of Overassessment), or Form 2504-WC (Agreement to Assessment and

Collection of Additional Employment Tax and Acceptance of Overassessment in Worker Classification Cases).

4. All internal documents and/or forms relevant to the appeal of the examination audit, including, but not limited to, Form(s) 4665 (Report Transmittal), Letter(s) 5072 (Examiner's Rebuttal), Form(s) 4549, Form(s) 4700, Form(s) 872, 872-A, or 872-T, Form(s) 866-A, Form(s) 895, workpapers, correspondence, memorandums, notes, history/activity sheets and all other papers retained by the Internal Revenue Service and/or Appeals Officer with respects to the taxpayers.
5. All documentary evidence including, but not limited to, affidavits and/or witness statements received by and/or gathered by and/or maintained by the Internal Revenue Service and/or Revenue Agent(s) and/or Tax Compliance Officer(s) and/or Tax Specialist(s) with respect to the taxpayer(s).
6. Copies of all TDA's (Taxpayer Delinquent Accounts) and/or TDI's (Taxpayer Delinquency Investigations) issued for the taxpayer(s).
7. All transcript(s) from the individual master file and from the non-master file for the taxpayer(s), including, but not limited to, the transcripts commonly known as a TXMODA, IMF Specific, SUMRY, and IMFOLI.

In accordance with the IRS Statement of Procedural Rules, Treas. Reg. Sec. 601.702(c)(3), we agree to pay charges incurred in locating and copying the requested documents, to an upper limit of \$150.00. If the fees will exceed that amount, please contact us for further authorization. I do not wish to inspect the documents first.

If you determine that any portion of a requested record is exempt from disclosure under the Act, we request that you provide us with copies of the remaining, non-exempt portion of the record. In addition, to the extent that access is denied to any part of the requested records, please provide us with an "Vaughn Index" and a detailed description of the deleted material, the number of pages withheld, cite the specific exemption which you think justifies the refusal to release the information, and explain how disclosure would be damaging, and inform me of the appeal procedures available to me under the law.

Under penalties of perjury I declare that my status as a requester is that of "other requester" in that I represent the above-named taxpayer.

In accordance with the provisions of the Freedom of Information Act, we will expect to receive a reply within the twenty (20) working day statutory period.

Any notification or questions concerning this request may be sent to the address set forth in the letterhead at the top of this letter, or conveyed by telephone at <PHONE>.

Sincerely,

Your Signature  
Your Firm

## Appendix D – Sample Language for Expedited Processing

### Example 1

#### **URGENT NOTE – EXPEDITED PROCESSING REQUIRED**

Failure to obtain these records promptly (within the 10 days as provided by IRM 11.3.13.8.4) will cause a loss of substantial “due process rights”. In light of the fact that the IRS continues to levy on the taxpayers accounts, time is urgent.

### Example 2

#### **URGENT NOTE – EXPEDITED PROCESSING REQUIRED**

Failure to obtain these records on or before June 30, 2014 (within the 10 days as provided by IRM 11.3.13.8.4) will cause a loss of substantial “due process rights”. The taxpayer is currently scheduled for a CDP hearing in the Office of Appeals on July 15. We require the information requested herein to prepare for our hearing. Failure to have the records requested by June 30, places the taxpayer in a position that we cannot appropriately prepare for the hearing.

## Appendix E – Sample FOIA Request for “CAF Client Listing Request”

Practitioner or company name  
Practitioner or company address  
Phone number (optional)

Date

Internal Revenue Service  
Disclosure Scanning  
Operation - Stop 93A  
Post Office Box 621506  
Atlanta GA 30362-3006

Dear Chief, Disclosure:

This is a request under the Freedom of Information Act.

I request that a copy of the CAF Representative/Client Listing be provided to me. I do not wish to inspect the documents first.

In order to determine my status for the applicability of fees, you should know that I am an “Other” requester seeking information for non-commercial or personal use. I am a tax professional and my CAF number is XXXXXXXX.

As proof of identity I am including a photocopy of my driver’s license, a notarized statement or a sworn statement.

Send listing as a paper document. I am willing to pay copying fees for this request up to a maximum of \$XX.XX (fill in amount). If you estimate that the fees will exceed this limit, please inform me first.

OPTIONAL: Send listing on CD as a text file using Windows Notepad.

Thank you for your consideration of this request.

Sincerely,

Your Name  
Your Firm



## Appendix F – Sample IRS letters from DO



PRIVACY, GOVERNMENTAL  
LIAISON AND DISCLOSURE

DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, DC 20224

November 27, 2012

Salvatore Candela  
75-16 Metropolitan Ave  
Middle Village, NY 11379

Dear Salvatore Candela:

I am responding to your Freedom of Information Act (FOIA) request dated October 3, 2012 that we received on October 10, 2012.

You asked for the trust fund recovery penalty file FOR [REDACTED]. However, at this time we have not been able to locate the records. A special search has been requested. If /when the files are located we will contact you. Or you can resubmit a request for these files in approximately 60 – 90 days.

If you have any questions please call Disclosure Specialist [REDACTED] ID # [REDACTED] at [REDACTED] or write to: Internal Revenue Service, Disclosure Scanning Operation – Stop 93A, PO Box 621506, Atlanta, GA 30362. Please refer to case number [REDACTED].

Sincerely,

[REDACTED]  
[REDACTED]  
Disclosure Specialist  
Disclosure Office 13

Enclosure  
Notice 393



PRIVACY, GOVERNMENTAL  
LIAISON AND DISCLOSURE

DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, DC 20224

November 5, 2012

Salvatore Candela  
75-16 Metropolitan Ave  
Middle Village, NY 11379

In Re: [REDACTED]

Dear Salvatore Candela:

I am responding to your Freedom of Information Act (FOIA) request dated October 3, 2012 that we received on October 10, 2012.

I am unable to send the information you requested by November 7, 2012, which is the 20 business-day period allowed by law. I apologize for any inconvenience this delay may cause.

**STATUTORY EXTENSION OF TIME FOR RESPONSE**

The FOIA allows an additional ten-day statutory extension in certain circumstances. To complete your request I need additional time to search for, collect, and review responsive records from other locations. We have extended the statutory response date to November 26, 2012, after which you can file suit. An administrative appeal is limited to a denial of records, so it does not apply in this situation.

**REQUEST FOR ADDITIONAL EXTENSION OF TIME**

Unfortunately, we will still be unable to locate and consider release of the requested records by November 26, 2012. We have extended the response date to December 31, 2012 when we believe we can provide a final response.

You do not need to reply to this letter if you agree to this extension. You may wish to consider limiting the scope of your request so that we can process it more quickly. If you want to limit your request, please contact the individual named below. If we subsequently deny your request, you still have the right to file an administrative appeal.

You may file suit if you do not agree to an extension beyond the statutory period. Your suit may be filed in the U.S. District Court:

- Where you reside or have your principal place of business

- Where the records are located, or
- In the District of Columbia

You may file suit after November 26, 2012. Your complaint will be treated according to the Federal Rules of Civil Procedure applicable to actions against an agency of the United States. These procedures require that the IRS be notified of the pending suit through service of process, which should be directed to:

Commissioner of Internal Revenue  
Attention: CC:PA: Br 6/7  
1111 Constitution Avenue, NW  
Washington, D.C. 20224

The FOIA provides access to existing records. Extending the time period for responding to your request will not delay or postpone any administrative, examination, investigation or collection action.

If you have any questions please call Disclosure Specialist [REDACTED] ID # [REDACTED], at [REDACTED] or write to: Internal Revenue Service, Disclosure Scanning Operation – Stop 93A, PO Box 621506, Atlanta, GA 30362. Please refer to case number [REDACTED]

Sincerely,

[REDACTED]  
[REDACTED]  
Disclosure Specialist  
Disclosure Office 13



PRIVACY, GOVERNMENTAL  
LIAISON AND DISCLOSURE

DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, DC 20224

May 21, 2012

Salvatore Candela  
75-16 Metropolitan Ave  
Middle Village, NY 11379

Dear Salvatore Candela:

I am responding to your Freedom of Information Act (FOIA) request dated April 24, 2012 that we received on April 30, 2012.

You asked for a copy of your administrative exam file. Of the 726 pages located in response to your request, I am enclosing 726 pages. I am withholding 6 pages in part for the following reason(s):

- I deleted the Discriminant Information Function (DIF) score from the enclosed records. Release of the DIF score would seriously impair IRS assessment, collection, and enforcement proceedings. FOIA exemption (b)(3), supported by Internal Revenue Code section 6103 (b)(2) and (e)(7) exempts this information from release. Disclosure of this information would also reveal law enforcement techniques, procedures and guidelines protected by FOIA exemption (b)(7)(E).

You asked for copies of records maintained for purposes of monitoring the statute of limitations for assessment with respect to [REDACTED]. The Statute of Limitations for the assessment of tax is established by law. Statute dates are monitored by using the information from the master file. Enclosed is a copy of the Individual Master File Transcript (IMF) for the tax years 2009 and 2010.

You asked for copies of all TDA's issued for taxpayers with respect to [REDACTED] and [REDACTED]. I found no documents specifically responsive to your request.

You asked for copies of the Automated Collection System with respect to [REDACTED] and [REDACTED]. I found no documents specifically responsive to your request.

You asked for copies of TXMOD, IMF Specific, SUMRY, and IMFOLI transcripts. I am enclosing a copy of the requested records consisting of 7 pages.

I removed 2 pages in part of information that is outside the scope of your power of attorney/authorization from the enclosed documents.

The redacted portions of each page are marked by the applicable FOIA exemptions. This constitutes a partial denial of your request. I have enclosed Notice 393 explaining your appeal rights.

The fee for copying the released documents is \$126.00, (\$0.20 per page after an allowance of 100 pages at no charge). Please send your check or money order in the amount of \$126.00 payable to the Treasury of the United States to the address below with the enclosed Fee Payment stub. We must receive your payment within 35 days from the date of this letter. Fees paid are reimbursement for services performed and are not refundable. If you fail to pay the fees, your name and your client's name will be added to the Freedom of Information Act Non-Payment list, and no future requests will be processed until all fees are paid in full.

If you have any questions please call Senior Disclosure Specialist [REDACTED] ID # [REDACTED], at [REDACTED] or write to: Internal Revenue Service, Disclosure Scanning Operation – Stop 93A, PO Box 621506, Atlanta, GA 30362. Please refer to case number [REDACTED]

Sincerely,

[REDACTED]  
[REDACTED]  
Disclosure Manager  
Disclosure Office 5

Enclosure  
Responsive Records  
Notice 393



Please return this attachment with your payment for Freedom of Information Act (FOIA) fees to:

Internal Revenue Service  
Disclosure Scanning Operation  
4800 Buford Hwy Mail Stop 93A  
Chamblee, GA 39901-0093

Please make check or money order payable to the Treasury of the United States.

Title: Payment  
Case #: [REDACTED]  
SSN/EIN: [REDACTED] and [REDACTED]  
Name Control: [REDACTED]

## Appendix G – Sample Documents Received

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**From:** [REDACTED]  
**Sent:** Monday, July 29, 2013 2:03 PM  
**To:** [REDACTED]  
**Subject:** FW: Taxpayer Rights and Personnel Matter  
**Importance:** High

As discussed please do not close case out of group at this time - Please review file and determine if case should have been treated as a repetitive examination - also did we contact Tp during O freeze period?

---

**From:** [REDACTED]  
**Sent:** Monday, July 29, 2013 1:29 PM  
**To:** Foschini Errol  
**Subject:** Fw: Taxpayer Rights and Personnel Matter

1 of 3

**From:** [REDACTED]  
**Sent:** 07/29/2013 1:00 PM  
**To:** [REDACTED]  
**Subject:** Taxpayer Rights and Personnel Matter

Mr [REDACTED]  
Thank you for getting back to me promptly. As discussed there are issues at several levels that need to be addressed. I would be willing to meet with you to further discuss resolving the T/P's matters primarily. I am confident that the staff and training issues being raised will be dealt with now that they are brought to the attention of management.

We had issues getting our POA entered via e-services and CAF returned it as name not matching for Spouse. This added to the list of anomalies associated with this case.

Attached are my letter to Mr [REDACTED] the report sent only to the T/P ignoring their representative, and my initial written contact with the examiner. I had to telephone in order to obtain the on the initial contact to the T/P (Letter 3572).

## Income Reconciliation

Taxpayer :	[REDACTED]	Date :	[REDACTED]
SSN :	[REDACTED]	Agent :	[REDACTED]
Tax Year :	200912	Workpaper :	

**Instructions:**

1. Fill in the name of the Taxpayer, SSN, Tax Year, Date and Agent fields. These fields will automatically populate all other worksheet headers.
2. Fill in the "Workpaper" number for each worksheet, as needed.
3. Use the Worksheet tab (located on the bottom bar) or Link to each of the worksheets.

**Calculations:**

Income Per Return	\$ 100,886.00
Income Per Bank	\$ 256,183.00
Other Income	\$ -
Under/Over Statement	\$ (155,497.00)

Analysis :



		settlement offer.	
06/22/2012 CO - AS	0.00	07/03/2012 [Weggeland, Tracy A (9421)] 07/03/2012 Mailed 870AD to TPW offering to abate penalty but sustain tax. TP does not meet RE pro criteria	
06/25/2012 TC	0.50	[Weggeland, Tracy A (9421)] TP called on weekend and left vm with contact info [redacted] that he received AO letter and wants to put all behind him. Called back and spoke about case. Explained abatement of penalty is offer...does not include interest or tax. TP questioned payment plan options, AO explained basics. TP inquired about 2009 year, AO explained already assessed. TP stated that the IRS already kept most of his refunds so 2009 is likely paid off...TP did not have his full file in front of him when AO called back...so he is going to call back tomorrow so we can go through all the numbers of the settlement. Explained will need him to sign agreement docs and TPW needs to sign also for the joint year...he stated he will try, but she may not be agreeable.	(b)(7)(C)
06/26/2012 **	0.00	[Barthel, William (5921)] reviewed for short statute. AO made tentative settlement offer. If agreements not returned by 7/10, AO needs to prepare for SND.	
06/27/2012 AN	0.25	[Weggeland, Tracy A (9421)] TP called...has form 870AD and is going to sign and send back. Went through all balances due with him on [redacted] UNCODED UNCODED	
		[redacted] Need to get copy of the report, only have penalty amount from the assessment. TP is going to speak to his ex and make her sign the joint years and will get back to AO within a week. Explained collection options and how state worked upon his inquiry.	BSC 6103
07/02/2012 TC	0.00	[Weggeland, Tracy A (9421)] TPH called...informed AO that TPW hired her on rep. He believes she will agree to offer but wants her own person to check out the settlement offer. Told TPH would speak to rep once receive POA and then call TP back. TPW's rep, Mr. Salvatore Candello called and left vm to call him at 718-894-5954. Called back, spoke to Cynthia and left contact information and asked that rep contact AO tomorrow.	
07/03/2012 TC	0.25	[Weggeland, Tracy A (9421)] POA emailed AO - without AO speaking to POA or providing email contact. Called POA back and POA would only state that he got AO email address from his contact at the IRS. Told POA to not email AO again, as it was not a secure email and the IRS does not permit email exchanges. POA stated that he represents Mrs. [redacted] and wants to fax over POA...provided fax number. Set up time to speak at 4pm today after AO receives 2848. POA also asked for AO employee ID number.	
07/03/2012 CF - PC	1.50	07/20/2012 [Weggeland, Tracy A (9421)] 08/06/2012 Received and reviewed new POA for rep of TPW. Held telephone conf and brought new POA up on what has happened with TPH to date and on offer. POA stated that he has asked the preparer for a copy of the authorization to file and has not received them. POA stated that he is likely going to claim isp for tpw. Asked POA if TPW signed consent and older POA...also asked if TPW performed any work at the real estate property as the log shows she materially participated (if the log is found to be wholly false, AO may reconsider waiving the penalty). POA refused to answer any of the questions directly and told AO he would need to get back to AO because he has not even seen any of the returns. POA requested copy of the returns, POA and 872. After the conference, AO faxed same. New POA wants two weeks to review info and decide how to proceed since it is all new to him. Told him need 872 signed in order not to issue SNOD asap. POA stated he will have TPW sign it. Told him if received next week, AO will hold off on SNOD and he can have a few weeks to review.	
07/03/2012 CO - CS	0.25	[Weggeland, Tracy A (9421)] Mailed 872 to POA for TPW and to TPH directly. Also faxed copy of return, POA and prior 872 to TPW POA at his request.	
07/03/2012 TC	0.25	[Weggeland, Tracy A (9421)] Called TPH and explained 872 was mailed today and explained conversation with TPW rep and he wanted more time to review...he will sign and get back to AO ASAP.	
07/10/2012 AN	0.50	[Weggeland, Tracy A (9421)] Received fax from POA and reviewed. POA received 872 but wants one sent with only TPW name on it. Spoke to mgr and agreed TPW needs to sign countersigned with both names since joint return. Called POA...he is out till next Wed...spoke to receptionist, who was the person that sent the fax and explained that counter signed docs must be the same...need back signed by Thurs...she will have TPW come in and sign and get back to AO this week.	
07/11/2012 AN	0.25	[Weggeland, Tracy A (9421)] Received fax copy of TPW extension and reviewed. TPW signed, called POA spoke to Lorraine and she also mailed original. Emailed manager and let him know that not going to issue SNOD since extensions are in route...10/31 statute so priority when received.	

<http://acds.web.irs.gov/AOfunctions/Cars/CarPrint.cfm?casesid=2912269&refCaseID=2912269...> 9/26/2012

Form <b>4549</b> (Rev. May 2008)		Department of the Treasury-Internal Revenue Service <b>Income Tax Examination Changes</b>		Page <u>1</u> of <u>2</u>
Name and Address of Taxpayer <div style="background-color: black; width: 100px; height: 20px;"></div>		Taxpayer Identification Number <div style="background-color: black; width: 100px; height: 20px;"></div>		Return Form No. <b>1040</b>
		Person with whom examination changes were discussed <div style="background-color: black; width: 100px; height: 20px;"></div>	Name and Title <div style="background-color: black; width: 100px; height: 20px;"></div>	
<b>1. Adjustments to Income</b>		<b>Period End</b> 12/31/2008	<b>Period End</b> 12/31/2007	<b>Period End</b> 12/31/2006
a. Data from Line 4549B		112,314.00	102,540.00	
b.				
c.				
d.				
e.				
f.				
g.				
h.				
i.				
j.				
k.				
l.				
m.				
n.				
o.				
p.				
<b>2. Total Adjustments</b>		112,314.00	102,540.00	
<b>3. Taxable Income Per Return as Previously Adjusted</b>		31,054.00	60,202.00	
<b>4. Corrected Taxable Income</b>		195,377.00	182,778.00	
Tax Method		DISCRETE	DISCRETE	
Filing Status		Joint	Joint	
<b>5. Tax</b>		44,094.00	39,412.00	
<b>6. Additional Taxes - Alternative Minimum Tax</b>			0.00	
<b>7. Corrected Tax Liability</b>		44,094.00	39,412.00	
<b>8. Less:</b>				
a. Child Tax Credit		0.00		
b. Education Credit			0.00	
c.				
d.				
<b>9. Balance (Line 7 less Lines 8a through 8d)</b>		44,094.00	39,412.00	
<b>10. Plus:</b>				
a. Self-employment Tax		270.00		
b.				
c.				
d.				
<b>11. Total Corrected Tax Liability (Line 9 plus Lines 10a through 10d)</b>		44,362.00	39,412.00	
<b>12. Total Tax Shown on Return as Previously Adjusted</b>		11,415.00	14,141.00	
<b>13. Adjustments to Tax (see Attached)</b>		3291.00	11,000.00	
b.				
c.				
<b>14. Deficiency Increase in Tax or (Overassessment/Decrease in Tax) (Line 11 less Line 12 adjusted by Lines 13a through 13c)</b>		31,639.00	24,271.00	
<b>15. Adjustments to Prepayment Credits - Increase (Decrease)</b>				
<b>16. Balance Due or (Overpayment) - (Line 14 adjusted by Line 15) (Refunding interest and penalties)</b>		31,639.00	24,271.00	

The Internal Revenue Service has agreements with state tax agencies under which information about federal tax, including increases or decreases, is exchanged with the states. If this change affects the amount of your state income tax, you should amend your state return by filing the necessary forms.

You may be subject to backup withholding if you underreported your income, dividend, or partnership dividend income you earned and do not pay the required tax. The IRS may incur backup withholding (withholding at a percentage of your dividend and/or interest income) if the tax remains unpaid after it has been assessed and four notices have been issued to you over a 120-day period.

Catalog Number 23105A [www.irs.gov](http://www.irs.gov) Form 4549 (May 2008)

Form <b>4549</b> (Rev. May 2008)		Department of the Treasury Internal Revenue Service <b>Income Tax Examination Changes</b>		Page <u>2</u> of <u>2</u>
Name of Taxpayer [REDACTED]		Taxpayer Identification Number [REDACTED]		Return Form No. 1040
17. Penalties Code Sections		Period End 12/31/2010	Period End 12/31/2011	Period End
a. Accuracy-Related Penalties		6,339.40	5,774.20	
b.				
c.				
d.				
e.				
f.				
g.				
h.				
i.				
j.				
k.				
l.				
m.				
n.				
18. Total Penalties		6,339.40	5,774.20	
Underpayment attributable to negligence (1981-1987) A tax addition of 50 percent of the interest due on the underpayment will accrue until it is paid or assessed.				
Underpayment attributable to fraud (1981-1987) A tax addition of 50 percent of the interest due on the underpayment will accrue until it is paid or assessed.				
Underpayment attributable to Tax Maltreated Transactions (TMT). The interest will accrue and be assessed at 120% of the underpayment in accordance with IRC §6621(c).		0.00	0.00	
19. Summary of Taxes, Penalties and Interest:				
a. Balance due or (Overpayment) Taxes - (Line 16, Page 1)		11,490.00	26,871.00	
b. Penalties (Line 16) - computed to 01/11/2012		6,339.40	5,774.20	
c. Interest (IRC § 6601) - computed to 01/11/2012		2,537.86	1,837.10	
d. TMT Interest - computed to 02/12/2012 (for TMT underpayment)		0.00	0.00	
e. Amount due or (refund) - (sum of Lines a, b, c and d)		40,367.26	34,482.30	
Other Information:				
Examiner's Signature [REDACTED]		Employee ID: [REDACTED]	Office Corvallis	Date: 01/11/2012
Consent to Assessment and Collection - I do not wish to exercise my appeal rights with the Internal Revenue Service or to contest in the United States Tax Court the findings in this report. Therefore, I give my consent to the immediate assessment and collection of any increase in tax and penalties, and accept any decrease in tax and penalties shown above, (and additional interest as provided by law. This understanding that this report is subject to acceptance by the Area Director, Area Manager, Specialty Tax Program Chief, or Director of Field Operations.				
PLEASE NOTE: If a joint return was filed, BOTH taxpayers must sign				
Signature of Taxpayer [REDACTED]		Date: [REDACTED]	Signature of Taxpayer [REDACTED]	Date: [REDACTED]
By: [REDACTED]		Title: [REDACTED]	Date: [REDACTED]	
Catalog Number 20105A		www.irs.gov		Form 4549 (Rev. 5-2008)

Corrected Report

Form <b>4549</b> (Rev. May 2008)		Department of the Treasury-Internal Revenue Service <b>Income Tax Examination Changes</b>		Page <u>1</u> of <u>2</u>
Name and Address of Taxpayer [REDACTED]		Taxpayer Identification Number [REDACTED]		Return Form No. 1040
Person with whom examination changes were discussed [REDACTED]		Name and Title: MANUEL A & SYLVIA BERDECIA PEREZ		
<b>1. Adjustments to Income</b>	<b>Period End</b> 12/31/2009	<b>Period End</b> 12/31/2010	<b>Period End</b>	
a. Total from Form 4549B	71,224.00	74,545.00		
b.				
c.				
d.				
e.				
f.				
g.				
h.				
i.				
j.				
k.				
l.				
m.				
n.				
o.				
p.				
2. Total Adjustments	71,224.00	74,545.00		
3. Taxable Income Per Return or as Previously Adjusted	86,063.00	80,202.00		
4. Corrected Taxable Income	157,287.00	154,747.00		
Tax Method	SCHEDULE D	SCHEDULE D		
Filing Status	Joint	Joint		
5. Tax	32,303.00	31,572.00		
6. Additional Taxes / Alternative Minimum Tax		0.00		
7. Corrected Tax Liability	32,303.00	31,572.00		
8. Less:				
a. Child Care Credit				
b. Education Credit	600.00			
c.		0.00		
d.				
9. Balance (Line 7 less Lines 8a through 8d)	31,703.00	31,572.00		
10. Plus:				
a. Self-Employment Tax	288.00			
b.				
c.				
d.				
11. Total Corrected Tax Liability (Line 9 plus Lines 10a through 10d)	31,991.00	31,572.00		
12. Total Tax Shown on Return or as Previously Adjusted	13,483.00	12,341.00		
13. Adjustments to:				
a. See Attached	(800.00)	(1,733.00)		
b.				
c.				
14. Deficiency-Increase in Tax or (Overassessment-Decrease in Tax) (Line 11 less Line 12 adjusted by Lines 13a through 13c)	19,308.00	20,964.00		
15. Adjustments to Prepayment Credits - Increase (Decrease)				
16. Balance Due or (Overpayment) - (Line 14 adjusted by Line 15) (Excluding interest and penalties)	19,308.00	20,964.00		

The Internal Revenue Service has agreements with state tax agencies under which information about federal tax, including increases or decreases, is exchanged with the states. If this change affects the amount of your state income tax, you should amend your state return by filing the necessary forms.

You may be subject to backup withholding if you underreport your interest, dividend, or patronage dividend income you earned and do not pay the required tax. The IRS may order backup withholding (withholding of a percentage of your dividend and/or interest income) if the tax remains unpaid after it has been assessed and four notices have been issued to you over a 120-day period.

Catalog Number 23105A

www.irs.gov

Form **4549** (Rev. 5-2008)



Corrected Report

Form <b>4549</b> (Rev. May 2008)		Department of the Treasury-Internal Revenue Service <b>Income Tax Examination Changes</b>		Page <u>2</u> of <u>2</u>
Name of Taxpayer [REDACTED]		Taxpayer Identification Number [REDACTED]		Return Form No. 1040
<b>17. Penalties/ Code Sections</b>		<b>Period End</b> 12/31/2009	<b>Period End</b> 12/31/2010	<b>Period End</b>
a. Accuracy-IRC 6662		3,861.60	4,192.80	
b.				
c.				
d.				
e.				
f.				
g.				
h.				
i.				
j.				
k.				
l.				
m.				
n.				
<b>18. Total Penalties</b>		3,861.60	4,192.80	
Underpayment attributable to negligence: (1981-1987) A tax addition of 50 percent of the interest due on the underpayment will accrue until it is paid or assessed				
Underpayment attributable to fraud: (1981-1987) A tax addition of 50 percent of the interest due on the underpayment will accrue until it is paid or assessed				
Underpayment attributable to Tax Motivated Transactions (TMT). The interest will accrue and be assessed at 120% of the underpayment rate in accordance with IRC §6621(c)		0.00	0.00	
<b>19. Summary of Taxes, Penalties and Interest:</b>				
a. Balance due or (Overpayment) Taxes - (Line 16, Page 1)		19,308.00	20,964.00	
b. Penalties (Line 18) - computed to 02/08/2012		3,861.60	4,192.80	
c. Interest (IRC § 6601) - computed to 03/05/2012		1,659.10	808.35	
d. TMT Interest - computed to 03/05/2012 (on TMT underpayment)		0.00	0.00	
e. Amount due or (refund) - (sum of Lines a, b, c and d)		24,828.70	25,965.15	

Other information:

This Report Supersedes the Report Issued 1/13/2012

Examiner's Signature: A. E. Honeywell	Employee ID: 19-21882	Office: Corona	Date: 02/08/2012
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Consent to Assessment and Collection- I do not wish to exercise my appeal rights with the Internal Revenue Service or to contest in the United States Tax Court the findings in this report. Therefore, I give my consent to the immediate assessment and collection of any increase in tax and penalties, and accept any decrease in tax and penalties shown above, plus additional interest as provided by law. It is understood that this report is subject to acceptance by the Area Director, Area Manager, Specialty Tax Program Chief, or Director of Field Operations.

**PLEASE NOTE: If a joint return was filed, BOTH taxpayers must sign**

Signature of Taxpayer	Date:	Signature of Taxpayer	Date:
By		Title:	Date:

Catalog Number 23105A      www.irs.gov      Form 4549 (Rev. 5-2008)

<b>Examining Officer's Activity Record</b>		Examining Officer [REDACTED]	Date assigned/Opened (mmddyyyy)
Taxpayer name and address (Use the preprinted label if possible) [REDACTED] [REDACTED]		Taxpayer's Representative name and address SALVATORE P. CANDOLA, EA	
Business name and address  [REDACTED]		Representative has ("x" proper box) <input checked="" type="checkbox"/> Power of Attorney <input type="checkbox"/> Taxpayer Authorization	
Residence telephone number cell [REDACTED]	Representative's telephone number 718-894-5954		
Business telephone number ( )	Fax telephone number 718-894-4476		
Fax telephone number ( )			

## Contacts and Activities

Date (mmddyyyy)	LOC	CONT	Time on Activity	Remarks, Notes, Actions Taken
11/14/2011				NAICS 999999 / 812990 2009 & 2010
11/14/11			2.5	PRE CONTACT. INCLUDED PUB.3498
1/13/12			3.0	INTERVIEWED TP. STATES HE IS RENTING 2 FLOORS OF A 3 FAMILY HOUSE TO RELATIVES. SEE INTERVIEW SHEET PAGE 4 and lead sheets. DEDUCTIONS FOR SCH A, SCH E, and SCH F WERE NOT SUBSTANTIATED. PREPARED 64549 L915 F12832 TP TO SUBMIT ADDITIONAL DOCS
1/13/12			1.5	PREPARED 64549 L915 F12832 REQUESTED ASCERTAINMENT OF PROPERTY
1/17/12			1.0	SUBSTANTIAL UNDERSTANDING
1/27/12			1.0	EXAMINED CORRESPONDENCE. MADE ADJUSTMENTS TO SCH A, R/E TAXES, and MORTG. INT. SCH E MORTG. INTS. R/E TAXES, INSURANCE.
2/8/12			1.0	PREPARED Revised RAR, F12832
2/22/12			1.5	PREPARED Pot. Telephone POT. To file Protest by 2/23/12
2/23/12			2.0	INITIATED PREP FOR APPEALS
3/24/12			2.0	CLOSING TO APPEALS

CONT = Type of Contact 1. Field Visit 2. Telephone 3. Correspondence 4. Other (explain in remarks)

LOC - Location of Activity T = Taxpayer Residence/ Business R = Representative Office O = Other (explain in remarks)

Workpaper#: 100-1.1

TIN:

CONT = Type of Contact 1. Field Visit 2. Telephone 3. Correspondence 4. Other (explain in remarks)

LOC – Location of Activity T = Taxpayer Residence/ Business R = Representative Office O = Other (explain in remarks)

Workpaper#: 100-1.2



CDE 1040 Classification Checksheet			
Primary SSN: [REDACTED]		Classifier SEID: <b>58FMB</b> Date: <b>1/3/2011 9:15:00 AM</b>	
Name: [REDACTED]		Reviewer SEID: _____ Date: _____	
Tax Year: <b>200912</b>		Classification Results: <input checked="" type="checkbox"/> Selected for Examination <input type="checkbox"/> Accepted As Filed	
Selection Reason/Strategy: <b>CIP (Compliance Initiative Projects)</b>		Type of Examination: <input type="checkbox"/> Correspondence Grade/EGC <input type="checkbox"/> Office <input checked="" type="checkbox"/> Field <b>1989</b>	
Comments: (Reference Issue #, if applicable)			
PC 0031 TC 7556 CIP - PAL Limitations Rental Real Estate			
	<b>Issue #</b>	<b>Check Issue # if questionable:</b>	<b>Remarks:</b>
<input type="checkbox"/>	61001	Filing Status	
	<b>Issue #</b>	<b>Exemptions:</b>	<b>Remarks:</b>
<input type="checkbox"/>	51006a	Exemptions-Self/Spouse	
<input type="checkbox"/>	51006c	Dependent Children-Live with Taxpayer	
<input type="checkbox"/>	51006d	Dependent Children-Do Not Live with Taxpayer	
<input type="checkbox"/>	51006e	Dependent-Parents	
<input type="checkbox"/>	51006f	Dependent-Other	
	<b>Issue #</b>	<b>Income:</b>	<b>Remarks:</b>
<input type="checkbox"/>	41007	Wages, Salaries and Tips, etc.	
<input type="checkbox"/>	41008	Interest Income	
<input type="checkbox"/>	41009	Dividends	
<input type="checkbox"/>	41010	State Refunds, Credits, or Offsets	
<input type="checkbox"/>	41011	Alimony Income	
<input type="checkbox"/>	4CGL	Schedule C Net Gain/Loss	
<input type="checkbox"/>	4D013	Capital Gain or Loss Where Sch-D Not Required	
<input type="checkbox"/>	41014	Other Gains or Losses From Form 4797	
<input type="checkbox"/>	41015	IRA Distributions	
<input type="checkbox"/>	41016	Pensions and Annuities	
<input type="checkbox"/>	4FGL	Schedule F Net Gain/Loss	
<input type="checkbox"/>	41019	Unemployment Compensation	
<input type="checkbox"/>	41020	Social Security Benefits	
<input type="checkbox"/>	41021	Other Income	



CDE 1040 Classification Checksheet - Schedule E			Primary SSN: 110-56-9740
Issue #	Income:	Remarks:	
<input type="checkbox"/> 4E103	Rents Received		
<input type="checkbox"/> 4E104	Royalties Received		
<input checked="" type="checkbox"/> 4E123	Real Estate Loss After Passive Limitation	Loss in Excess of \$25,000	
<input type="checkbox"/> 4E131	Inc/Loss-Prtnrship/S Corps-Passve/Non-Passve		
<input type="checkbox"/> 4E136	Inc/Loss-Estates/Trusts-Passive/Non-Passive		
<input type="checkbox"/> 4E138	REMIC Income or Loss		
<input type="checkbox"/> 4E139	Net Farm Rental Income or Loss		
Issue #	Expenses:	Remarks:	
<input type="checkbox"/> 5E105	Advertising		
<input type="checkbox"/> 5E106	Auto and Travel		
<input type="checkbox"/> 5E107	Cleaning and Maintenance		
<input type="checkbox"/> 5E108	Commissions		
<input type="checkbox"/> 5E109	Insurance		
<input type="checkbox"/> 5E110	Legal and Other Professional Fees		
<input type="checkbox"/> 5E111	Management Fees		
<input type="checkbox"/> 5E112	Mortgage Interest		
<input type="checkbox"/> 5E113	Other Interest		
<input type="checkbox"/> 5E114	Repairs		
<input type="checkbox"/> 5E115	Supplies		
<input type="checkbox"/> 5E116	Taxes		
<input type="checkbox"/> 5E117	Utilities		
<input type="checkbox"/> 5E118	Other Expenses		
<input type="checkbox"/> 5E120	Depreciation Expense or Depletion		

TAXPAYER: [REDACTED]  
 DATE: 1/12/2012  
 YEAR: 2009-2010

INITIAL INTERVIEW (BUSINESS RETURN) INDIVIDUAL

PERSONS PRESENT: [REDACTED] NYJRV. exp. 8/3/18

GENERAL ITEMS:

1. Did you receive Publication 1 and Notice 609? ✓  
 Do you have any questions about the examination process, or the Publications?  
 Do you understand the appeal rights? yes

2. Power of Attorney? \_\_\_\_\_  
 POA Telephone number: \_\_\_\_\_

3. Address the same as on tax return? Yes ✓ No ✓ Own/Rent? \_\_\_\_\_  
 TP has been at current address for approximately 99.5 years.  
 Taxpayer lives with Spouse and 2 children  
 TP's telephone #: Home ✓ Work ✓

4. Current Filing status is Joint  
 (1) Single (2) Joint (3) Married filing Separate (4) Head of Household  
 (5) widow/widower

5. CURRENT EMPLOYMENT: EMPLOYER OCCUPATION  
 Taxpayer [REDACTED] Security Consultant  
 Approximate # of Years with employer 1 1/2 yrs.  
 Spouse [REDACTED] SPVR. / acctg.  
 Approximate # of Years with employer 21 Soft

Do you/your spouse incur any type of business expenses in your positions for which you are not reimbursed? If yes, please explain yes

6. Preparer Information:  
 Name of Preparer [REDACTED] see RETURN copy? yes  
 Amount paid for preparation 2009 \$150 / 2010 \$200  
 \*\*\* DOCUMENTS / INFORMATION TO PREPARER: W's, Receipts, ID.

7.A - NAMES (S) and SSN CORRECT? yes

7.B - KNOWN BY ANY OTHER NAMES NO

7.C - CONTACT WITH IRS... NO F. WEB SITE... NO

7.D - PRIOR AUDITS... NO G. INTERACT USE... EMAIL, BROWSER

7.E - NEGOTIATED REFUND... REFUND COAD

7. - LEVEL OF EDUCATION TP: <sup>6 mos</sup> college  
TPS: 1 yr.  
7. Does taxpayer have any children? Yes 2 No college

7. Does taxpayer have any children? Yes 2 No     

Name [REDACTED] Age 6/28/1992  
Name [REDACTED] Age 7/25/2005  
Name [REDACTED] Age [REDACTED]

~~SECRET~~ ETC INFORMATION

**General Income Items:**

1. Any income from other sources, such as:

- Gifts,
- Social security,
- Pensions & Annuities
- Interest/municipal bonds,
- Investments
- Inheritances
- VA benefits
- Child support,

2. Was taxpayer involved in bartering? Yes            No   X  

3. ANY CASH TRANSACTIONS OVER \$10,000 NO

4. ANY FOREIGN BANK ACCOUNTS OR INVESTMENTS? NO

**Business Information and History:**

8. Business Name / Type of Business

\* 9. Description of Business Operations: per return: "SE Celebrity Consultant"  
POA Interview: organized to purchase

9. Description of Business Operations:

and Development R/E

NO EXPLANATIONS OR DOCUMENTS TO  
SUBSTANTIATE SCH & EXPENSES.

## 10. History:

Number of Years in Business NE Bus. 8/31/2005

Any employees? NO

Do you have a business liscense? *No*

SEE P. 4

4. Cash On Hand: minimal  
Do you keep any cash on hand and is there any material change in cash on hand from the beginning to the end of this tax year N/A
6. Any personal or business loans received during the year? N/A  
Any loans from friends/relatives N/A  
Do you maintain any charge accounts or credit cards? VISA: CHASE  
PC RICHARDS WAINWART  
HOME DEPOT
7. Did you receive any gifts or inheritances during the year?  
NO
8. What personal or business property do you own?:  
Personal ✓ Business N/A 2000 Auto
9. Were any assets purchased or sold during this tax year?:  
Source of funds for the purchases NO  
Auto cost \$27,000 CHASE  
(2009) TOWN & COUNTRY 2005  
2000 Neon
10. Vehicles owned? NO  
Any business use? NO (2010) - SUBARU LEGACY 2010:  
# of Drivers in household 2 TP and SAUGHTEN are drivers
10. How were gross receipts calculated? TP Believes it is income from  
PFT Security WORK.
11. What type of records do you maintain to verify business income and expenses? Receipts
11. Do you maintain any bank accounts? CHASE: CK9.  
Name of Bank \_\_\_\_\_  
Type of Account \_\_\_\_\_
- Are all business receipts deposited? yes  
How are business expenses paid? CASH  
Are business and personal expenses kept separately? NO

see P4



3 FAMILY House

① RESIDENCE: 3 Bedroom

1<sup>ST</sup> FLOOR

THIS CAUSIA

Basement

② RENTAL: 2<sup>ND</sup> FLOOR

\$1300 MONTHLY  
\$1400 FMR.

3 Bedroom

③ Rental 3<sup>RD</sup> FLOOR

SPRISI'S SISTER

750 MONTHLY  
~~\$1200~~ MONTHLY  
\$1200 FMR

2 Bedroom

15600  
9000  
24600

Form <b>886-A</b> (Rev. January 1994)	<b>EXPLANATION OF ITEMS</b>		Schedule number or exhibit
Name of taxpayer [REDACTED]	Tax Identification Number [REDACTED]	Year/Period ended 2009 & 2010	

POA's written protest did not mention the unsubstantiated Contributions, nor unsubstantiated Employee Business Expenses. POA did state that schedule C deductions were "complete fabrications".

Schedule E

1/12/2012 - TCO INTERVIEWED TP. TP STATED THAT HE IS RENTING THE SECOND AND THIRD FLOORS OF A 3-FAMILY HOUSE TO HIS COUSIN, AND HIS WIFE'S SISTER AT BELOW MARKET RENTS. THERE ARE NO LEASES. THEY ARE RENTING TO HIS COUSIN A 2ND FLOOR 3- BEDROOM APT FOR \$1300 PER MONTH ( THE MARKET RENT IS \$1400). THEY ARE RENTING TO HIS WIFE'S SISTER, A THIRD FLOOR 2 -BEDROOM APT FOR \$750 ( THE MARKET RENT IS \$1200). TP MAY NOT TAKE A LOSS. ALLOWED EXPENSES LIMITED TO INCOME.

FURTHER, IN BOTH 2009 AND 2010 TAXPAYERS' MAGI EXCEED \$150,000

Law:  
IRC. Sect. 280A

Argument:  
POA does not state why the adjustments should be reconsidered.

Penalties:  
They were properly applied in accordance with the Code, and the IRM

Taxpayer Name: [REDACTED] Examiner: [REDACTED]  
 TIN: [REDACTED]  
 Tax Form: 1040 Date: 11/14/11  
 Tax Year (s): 200912, 201012

Dependents				
Tax Period	Per Return	Per Exam	Adjustment	Reference
200912	1.00	1.00	.00	
201012	1.00	1.00	.00	

**Conclusion:** *(Reflects the final determination on the issue.)*  
 [REDACTED] - [REDACTED] DOB 7/25/2005  
 1/12/12 - Interviewed TP. To provide birth certificate  
 1/13/12 - TP DELIVERD BIRTH CERT.  
 The following techniques are not intended to be all-inclusive nor are they mandatory steps to be followed. Judgment should be used in selecting the techniques that apply to each taxpayer.

Audit Steps: <i>(Document audit steps taken or to be taken.)</i>	Workpaper Reference
1. Reconcile the amount(s) per return to Taxpayer's records	
2. Perform all five tests to determine if a dependent can be claimed: <ul style="list-style-type: none"> <li>• Member of household or relationship test</li> <li>• Citizenship or residency test</li> <li>• Joint return test</li> <li>• Gross income test</li> <li>• Support test</li> </ul>	
3. Adjust other areas of return, if dependent has been disallowed (filing status, childcare credit, child tax credit, education credit and EITC).	
4. Check related returns that may be impacted	
5.	
6.	

**Facts:** *(Document the relevant facts.)*  
 [REDACTED]

**Law:** *(Tax Law, Regulations, court cases, and other authorities. If Unagreed, include Argument)*  
 IRC Section: §152  
 Specific citations:  
 Taxpayer Position: *(If applicable)*

Form <b>1040</b>		Department of the Treasury - Internal Revenue Service		U.S. Individual Income Tax Return <b>2009</b>		(99) IRS Use Only-Do not write or staple in this space.	
For the year Jan. 1-Dec. 31, 2009, or other tax year beginning		2009, ending		20		OMB No. 1545-0074	
Name		Spouse's Name (if Joint Return)		Home Address		City, State, and ZIP Code	
Your social security number		Spouse's social security no.		You must enter your SSN(s) above.		Checking a box below will not change your tax or refund.	
Election Campaign		Check here if you, or your spouse if filing jointly, want \$3 to go to this fund (see instructions)		You		Spouse	
Filing Status		1 <input type="checkbox"/> Single		4 <input type="checkbox"/> Head of household (with qualifying person). (See instructions.)		If the qualifying person is a child but not your dependent, enter this child's name here.	
Check only one box.		2 <input checked="" type="checkbox"/> Married filing jointly (even if only one had income)		3 <input type="checkbox"/> Married filing separately. Enter spouse's SSN above and full name here.		5 <input type="checkbox"/> Qualifying widow(er) with dependent child (see instructions)	
Exemptions		6a <input checked="" type="checkbox"/> Yourself. If someone can claim you as a dependent, do not check box 6a		6b <input checked="" type="checkbox"/> Spouse		Boxes checked on 6a and 6b	
Dependents:		(1) First name		(2) Dependent's social security no.		(3) Dependent's relationship to you	
Last name		DAUGHTER		SON		(4) <input checked="" type="checkbox"/> If qualifying child for child tax credit (see inst.)	
Total number of exemptions claimed		7		Wages, salaries, tips, etc. Attach Form(s) W-2		7	
Income		8a		Taxable interest. Attach Schedule B if required		8a	
8b		Tax-exempt interest. Do not include on line 8a		8b		8b	
9a		Ordinary dividends. Attach Schedule B if required		9a		9a	
9b		Qualified dividends (see instructions)		9b		9b	
10		Taxable refunds, credits, or offsets of state and local income taxes (see instructions)		10		10	
11		Alimony received		11		11	
12		Business income or (loss). Attach Schedule C or C-EZ		12		12	
13		Capital gain or (loss). Attach Schedule D if required. If not required, check here		13		13	
14		Other gains or (losses). Attach Form 4797		14		14	
15a		IRA distributions		15a		b Taxable amount (see inst.)	
16a		Pensions and annuities		16a		b Taxable amount (see inst.)	
17		Rental real estate, royalties, partnerships, S corporations, trusts, etc. Attach Schedule E		17		17	
18		Farm income or (loss). Attach Schedule F		18		18	
19		Unemployment compensation in excess of \$2,400 per recipient (see instructions)		19		19	
20a		Social security benefits		20a		b Taxable amount (see inst.)	
21		Other income. List type and amount (see instr.)		21		21	
22		Add the amounts in the far right column for lines 7 through 21. This is your total income		22		22	
23		Educator expenses (see instructions)		23		23	
24		Certain business expenses of reservists, performing artists, and fee-basis gov. officials. Attach Form 2106 or 2106-EZ		24		24	
25		Health savings account deduction. Attach Form 8889		25		25	
26		Moving expenses. Attach Form 3903		26		26	
27		One-half of self-employment tax. Attach Schedule SE		27		27	
28		Self-employed SEP, SIMPLE, and qualified plans		28		28	
29		Self-employed health insurance deduction (see instr.)		29		29	
30		Penalty on early withdrawal of savings		30		30	
31a		Alimony paid b Recipient's SSN		31a		31a	
32		IRA deduction (see instructions)		32		32	
33		Student loan interest deduction (see instructions)		33		33	
34		Tuition and fees deduction. Attach Form 8917		34		34	
35		Domestic production activities deduction. Attach Form 8903		35		35	
36		Add lines 23 through 31a and 32 through 35		36		36	
37		Subtract line 36 from line 22. This is your adjusted gross income		37		37	

or Disclosure, Privacy Act, and Paperwork Reduction Act Notice, see instructions.

Form 1040 (2009)



Form **1040** Department of the Treasury - Internal Revenue Service  
**U.S. Individual Income Tax Return 2010** (99) IRS Use Only-Do not write or staple in this space.

For the year Jan. 1-Dec. 31, 2010, or other tax year beginning 2010, ending 2010 OMB No. 1545-0074

**Label** (See instructions) **Name** **Spouse's Name (if Joint Return)** **Home Address** **City, State, and ZIP Code** **Your social security number**  
**Use the IRS label.** Otherwise, please print or type. **Spouse's social security no.**  
 ▲ You must enter your SSN(s) above. ▲  
 Checking a box below will not change your tax or refund.

**Presidential Election Campaign** Check here if you, or your spouse if filing jointly, want \$3 to go to this fund (see instructions) ☐ You ☐ Spouse

**Filing Status** 1 ☐ Single 4 ☐ Head of household (with qualifying person). (See instructions.)  
 2 ☒ Married filing jointly (even if only one had income) If the qualifying person is a child but not your dependent, enter this child's name here. ▶  
 3 ☐ Married filing separately. Enter spouse's SSN above and full name here. ▶ 5 ☐ Qualifying widow(er) with dependent child (see instructions)

**Exemptions** 6a ☒ Yourself. If someone can claim you as a dependent, do not check box 6a 6b ☒ Spouse

If more than four dependents, see instr. and check here ▶ ☐

(1) First name	Last name	(2) Dependent's social security no.	(3) Dependent's relationship to you	(4) <input checked="" type="checkbox"/> If qualifying child for child tax credit (see instr.)	Boxes checked on 6a and 6b
			DAUGHTER		No. of children on 6c who: • lived with you 2 • did not live with you due to divorce or separation (see instr.) 0 Dependents on 6c not entered above 0
			SON	X	

d Total number of exemptions claimed Add numbers on lines above ▶ 4

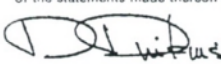
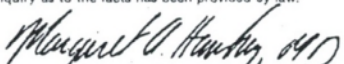

**Income** 7 Wages, salaries, tips, etc. Attach Form(s) W-2 7 116,454.

**8a** Taxable interest. Attach Schedule B if required 8a  
**b** Tax-exempt interest. Do not include on line 8a 8b  
**9a** Ordinary dividends. Attach Schedule B if required 9a  
**b** Qualified dividends (see instructions) 9b  
**10** Taxable refunds, credits, or offsets of state and local income taxes (see instructions) 10 8,248.  
**11** Alimony received 11  
**12** Business income or (loss). Attach Schedule C or C-EZ 12  
**13** Capital gain or (loss). Attach Schedule D if required. If not required, check here ▶ ☐ 13  
**14** Other gains or (losses). Attach Form 4797 14  
**15a** IRA distributions 15a **b** Taxable amount (see instr.) 15b  
**16a** Pensions and annuities 16a **b** Taxable amount (see instr.) 16b 61,981.  
**17** Rental real estate, royalties, partnerships, S corporations, trusts, etc. Attach Schedule E 17 (38,583.)  
**18** Farm income or (loss). Attach Schedule F 18  
**19** Unemployment compensation (see instructions) 19  
**20a** Social security benefits 20a **b** Taxable amount (see instr.) 20b  
**21** Other income. List type and amount (see instr.) 21  
**22** Combine the amounts in the far right column for lines 7 through 21. This is your total income 22 148,100.

**Adjusted Gross Income**

23	Educator expenses	23
24	Certain business expenses of reservists, performing artists, and fee-basis gov. officials. Attach Form 2106 or 2106-EZ	24
25	Health savings account deduction. Attach Form 8889	25
26	Moving expenses. Attach Form 3903	26
27	One-half of self-employment tax. Attach Schedule SE	27
28	Self-employed SEP, SIMPLE, and qualified plans	28
29	Self-employed health insurance deduction (see instr.)	29
30	Penalty on early withdrawal of savings	30
31a	Alimony paid b Recipient's SSN ▶	31a
32	IRA deduction (see instructions)	32
33	Student loan interest deduction (see instructions)	33
34	Tuition and fees. Attach Form 8917	34
35	Domestic production activities deduction. Attach Form 8903	35
36	Add lines 23 through 31a and 32 through 35	36
37	Subtract line 36 from line 22. This is your adjusted gross income	37 148,100.

For Disclosure, Privacy Act, and Paperwork Reduction Act Notice, see instructions.  
 BCA US1040S1 Form **1040** (2010)

City of New York	Department of Health	Vital Records
<b>CERTIFICATE OF BIRTH REGISTRATION</b>		
<p>Below is an exact copy of a certificate of Birth registered for your child. It is sent without charge. If the certificate contains any errors return this copy with the correct information to the Bureau of Vital Records, 125 Worth Street, New York, N.Y. 10013. You will be advised how to have the record corrected. It is important to do this at once.</p>		
<p>The reproduction or alteration of this transcript is prohibited by Section 3.21 of the New York City Health Code.</p>		
<p>Notice In Issuing this transcript of the record, the Department of Health of the City of New York does not certify to the truth of the statements made thereon as no inquiry as to the facts has been provided by law.</p>		
 MAYOR	 COMMISSIONER OF HEALTH	 CITY REGISTRAR

DATE FILED		VITAL RECORDS		<b>CERTIFICATE OF BIRTH</b>	
		DEPARTMENT OF HEALTH			
		BUREAU OF MANHATTAN			
		Birth No.			
		92 JUL -8 AM 11:35			
1. FULL NAME OF CHILD	(Type or Print)	First Name	Middle Name	Last Name	
2. SEX	3a. NUMBER OF CHILDREN born of this pregnancy	4a. DATE OF CHILD'S BIRTH	4b. Hour	4c. AM <input checked="" type="checkbox"/> PM <input type="checkbox"/>	
FEMALE	1	JUNE 28 1992	2:10		
5. PLACE OF BIRTH	5a. NEW YORK CITY BOROUGH OF	5b. Name of Facility (if not in institution street address)		5c. TYPE OF PLACE	
	BROOKLYN	LONG ISLAND COLLEGE HOSPITAL		<input checked="" type="checkbox"/> Hospital <input type="checkbox"/> Home <input type="checkbox"/> Birthing Center <input type="checkbox"/> Other	
6a. MOTHER'S FULL MAIDEN NAME	6b. MOTHER'S DATE OF BIRTH	6c. MOTHER'S BIRTHPLACE			
	10 06 62	BROOKLYN, NEW YORK			
7. MOTHER'S USUAL RESIDENCE	7c. City, town, or location	7d. Street and house number	Zip	7e. Inside city limits of 7c?	
a. State b. County	N. Y. KINGS	BROOKLYN	11207	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	
8a. FATHER'S FULL NAME	8b. FATHER'S DATE OF BIRTH	8c. FATHER'S BIRTHPLACE			
	08 03 61	PUERTO RICO			
9a. NAME OF ATTENDANT AT DELIVERY	R.N. C.N.M. Other Midwife D.O. M.D.	9b. I CERTIFY THAT THIS CHILD WAS BORN ALIVE AT THE PLACE, DATE AND TIME GIVEN			
	M.D.				
Information added or amended		Signed			
(Reason)		Name of Signer			
Date		Address			
City Registrar		Date Signed		JUNE 28th, 19 92	
VITAL RECORDS		DEPARTMENT OF HEALTH		THE CITY OF NEW YORK	
Name		Address		City	
		BROOKLYN		State N. Y. Zip 11207	
Died Date		Print here the mailing address of mother.		Copy of this certificate will be mailed to her when it is filed with the Department of Health.	



Recorded District 2951  Register Number [REDACTED]	<b>New York State Department of Health</b> <b>CERTIFICATE OF</b> <b>LIVE BIRTH</b>	State File Number: [REDACTED]
--	--	----------------------------------

<b>INFANT</b>	1A. Name: First [REDACTED] Middle [REDACTED] Last [REDACTED]				
	1B. Medical Record No.: [REDACTED]	2A. Date of Birth: July 25, 2005	2B. Hour: 4:46 PM	3. Sex: Male	4A. Birth Is: Single
	5. Place of Birth: Hospital		6A. Facility Name: (Address, if Place of Birth Is Other than Hospital / Birthing Center) North Shore University Hospital		
	6B. Locality of Birth: Town of North Hempstead				6C. County of Birth: Nassau

<b>MOTHER</b>	7A-1. Name: First [REDACTED] Middle [REDACTED] Current Last Name [REDACTED]		
	7A-2. Maiden Last Name: [REDACTED]	7B. Date of Birth: 10/06/1962	7C. City & State of Birth: (Country, if not U.S.A.) BROOKLYN, New York
	8A. Residence, State: (Country, if not U.S.A.) New York		8B. County: (Ten, or Prov., if not USA) Queens
	8C. Locality: City of New York (Woodhaven)		8D. Inside City/Village Limit?
	8E. Street and Number of Residence: [REDACTED]		8F. Zip Code: 11421
	8G. Mailing Address: [REDACTED] Woodhaven, NY		8H. Zip Code: 11421
	8I. Medical Record No.: [REDACTED]		

<b>FATHER</b>	9A. Name: First [REDACTED] Middle [REDACTED] Last [REDACTED]		
	9B. Date of Birth: 09/03/1961	9C. City & State of Birth: (Country, if not U.S.A.) AGUADILLA, Puerto Rico	

<b>ATTENDANT</b>	10A. I certify that the stated information concerning this child is true to the best of my knowledge and belief.			10B. Date Signed: Month Day Year 7 28 05		
	Signature: [REDACTED]			Title: [REDACTED]		
	10C. Name of Certifier, if Not Attendant: [REDACTED]			10D-1. NYS License Number: (Certifier) [REDACTED]		
	10E. Attendant's Name: [REDACTED]			10F-1. NYS License Number: (Attendant) [REDACTED]		
	11A. Registrar Name: [REDACTED]			M.D.		

11B. Signature of the Registrar: [REDACTED]			11C. Date Filed: Month Day Year 8 12 05		
---	--	--	--	--	--

\* 12 Information Added or Corrected:

Item No.	Date of Correction	Authorization	Original Information

DOH-1963E (03/2004)

Taxpayer Name: [REDACTED]

Examiner: [REDACTED]

TIN: [REDACTED]

Tax Form: 1040

Date: 1/13/2012

Tax Year (s): 200912, 201012

IRC	Penalty	IRM	Assert Penalty		Reference
			Yes	No	
Penalties Not Requiring Group Managerial Approval					
6651(a)(1)	Failure to File (Delinquent and non-filed returns) (Lead Sheet available)	20.1.2.3		X	
6651(a)(2)	Failure to Pay	20.1.2.4		X	
6654	Estimated Tax – Individual	20.1.3.2		X	
6655	Estimated Tax – Corporate	20.1.3.3		X	
IRC	Penalty	IRM	Assert Penalty		Reference
			Yes	No	
Penalties Requiring Group Manager Approval					
6651(f)	Fraudulent Failure To File, Civil	20.1.2.7		X	
6662(c)	Negligence (Lead Sheet available)	20.1.5.7		X	
6662(d)	Substantial Understatement (Lead Sheet available)	20.1.5.8	X		
6662(b)	Other Accuracy Related	20.1.5.1.1		X	
6662(h)	Gross Valuation Misstatement	20.1.5.9.4		X	
6662A	Accuracy Related Penalty on Understatements with Respect to Reportable Transactions (RT)	20.1.5.13		X	
6707A	Failure to Include Reportable Transactions Information with Return or Statement (See MySB/SE Abusive Transactions website)	20.1.5.13 and 4.32.2		X	
6663	Fraud (Lead Sheet available)	20.1.5.12		X	
	Alternative Penalty Position	20.1.5.12.2		X	
Consideration of Preparer/Promoter/Material Advisor Penalties			Consider Penalty		Reference
			Yes	No	
6694(a)	Preparer Penalties – Understatement Due to Unreasonable Positions (Lead Sheet available)	20.1.6.3.7		X	
6694(b)	Preparer Penalties – Understatement Due to Willful or Reckless Conduct (Lead Sheet available)	20.1.6.3.13		X	
6695	Other Preparer Penalties	20.1.6.4		X	
6700	Promoting Abusive Tax Shelters	20.1.6.12		X	
6701	Aiding & Abetting Understatement of Tax Liability	20.1.6.13		X	
6707	Failure to Furnish Information Regarding RT	20.1.6.15		X	
6708	Failure to Maintain Lists of Advisees with Respect to RT	20.1.6.16		X	
6713	Unauthorized Disclosure or Use of Information	20.1.6.6		X	

Internal Revenue Service  
Appeals Office  
50 Clinton St - Third Floor  
Hempstead, NY 11550-4201

Date: September 10, 2012

SALVATORE P CANDELA  
75-16 METROPOLITAN AVE  
MIDDLE VILLAGE NY 11379

Department of the Treasury

Person to Contact:

Tracy A Weggeland  
Employee ID Number:  
Tel: 516-539-6265  
Fax:

Refer Reply to:

AP:FE:LI:TAW

In Re:

[REDACTED]  
[REDACTED]

Tax Period(s) Ended:

12/2009 12/2010

Dear Mr. SALVATORE P CANDELA:

Attached please find proposed computations for your clients, [REDACTED]. While most of the issues were settled at our conference, below is a summary of items that were not finalized:

- Appeals will concede that the rental units were rented for fair market value.
- After removing the in the line of duty pay that was incorrectly reported on the return, the loss was allowed in full.
- I was able to verify that the actual purchase price of the house was \$240,024.
- The depreciation adjustment you proposed was based upon a land value of 10%. Appeals assigned a value of 25% of for land. The change made an approximate \$900 difference to the Schedule E depreciation in each year.
- For 2010 your spreadsheet shows insurance expense of \$10,443. The amount verified in 2009 was \$3,766. The amount appears high based upon the usual expense for homeowners insurance and the amount verified in the prior year. As such, I have allowed the 2009 amount in 2010. If the expense is truly \$10,443 please provide the invoice and payment documentation to substantiate.

Please review the settlement offer and advise if your client is in agreement. Once we are in agreement I will formalize the settlement and send documents for your signature.

Sincerely,

  
Tracy A Weggeland  
Appeals Officer

<b>Form 4549-A</b> (Rev. May 2008)	Department of the Treasury-Internal Revenue Service <b>Income Tax Discrepancy Adjustments</b>		Page <u>1</u> of <u>2</u>
Name and Address of Taxpayer <div style="background-color: black; height: 20px; width: 100%; margin-top: 5px;"></div> <div style="background-color: black; height: 20px; width: 100%; margin-top: 5px;"></div> <div style="background-color: black; height: 20px; width: 100%; margin-top: 5px;"></div>	Taxpayer Identification Number <div style="background-color: black; height: 20px; width: 100%; margin-top: 5px;"></div>	Return Form No.: 1040	
	Person with whom examination changes were discussed.	Name and Title: MANUEL A & SYLVIA BERDECIA PEREZ	

	Period End 12/31/2009	Period End 12/31/2010	Period End
<b>1. Adjustments to Income</b>			
a. Total from Form 4549B	(36,435.00)	(4,666.67)	
b.			
c.			
d.			
e.			
f.			
g.			
h.			
i.			
j.			
k.			
l.			
m.			
n.			
o.			
p.			
<b>2. Total Adjustments</b>	(36,435.00)	(4,666.67)	
<b>3. Taxable Income Per Return or as Previously Adjusted</b>	86,063.00	80,202.00	
<b>4. Corrected Taxable Income</b>	49,628.00	75,535.00	
Tax Method	SCHEDULE D	SCHEDULE D	
Filing Status	Joint	Joint	
<b>5. Tax</b>	6,609.00	11,244.00	
<b>6. Additional Taxes / Alternative Minimum</b>		0.00	
<b>7. Corrected Tax Liability</b>	6,609.00	11,244.00	
<b>8. Less</b>			
a. Child Care Credit	600.00		
b. Child Tax Credit	1,000.00	850.00	
c. Education Credit		1,500.00	
d.			
<b>9. Balance (Line 7 less total of Lines 8a thru 8d)</b>	5,009.00	8,894.00	
<b>10. Plus</b>			
a.			
b. Other			
c. Taxes			
d.			
<b>11. Total Corrected Tax Liability (Line 9 plus Lines 10a thru 10d)</b>	5,009.00	8,894.00	
<b>12. Total Tax Shown on Return or as Previously Adjusted</b>	13,483.00	12,341.00	
<b>13. Adjustments to:</b> a.			
b.			
c.			
<b>14. Deficiency-Increase in Tax or (Overassessment - Decrease in Tax) (Line 11 less Line 12 adjusted by Lines 13a through 13c)</b>	(8,474.00)	(3,447.00)	
<b>15. Adjustments to Prepayment Credits-Increase (Decrease)</b>			
<b>16. Balance Due or (Overpayment) - (Line 14 adjusted by Line 15) (Excluding interest and penalties)</b>	(8,474.00)	(3,447.00)	



Form <b>4549-A</b> (Rev. May 2008)		Department of the Treasury-Internal Revenue Service <b>Income Tax Discrepancy Adjustments</b>		Page <u>2</u> of <u>2</u>
Name of Taxpayer [REDACTED]		Taxpayer Identification Number [REDACTED]		Return Form No.: 1040
<b>17. Penalties/ Code Sections</b>		<b>Period End</b> 12/31/2009	<b>Period End</b> 12/31/2010	<b>Period End</b>
a.				
b.				
c.				
d.				
e.				
f.				
g.				
h.				
i.				
j.				
k.				
l.				
m.				
n.				
<b>18. Total Penalties</b>				
Underpayment attributable to negligence: (1981-1987) A tax addition of 50 percent of the interest due on the underpayment will accrue until it is paid or assessed.				
Underpayment attributable to fraud: (1981-1987) A tax addition of 50 percent of the interest due on the underpayment will accrue until it is paid or assessed.				
Underpayment attributable to Tax Motivated Transactions (TMT). Interest will accrue and be assessed at 120% of underpayment rate in accordance with IRC 6621(c).		0.00	0.00	
<b>19. Summary of Taxes, Penalties and Interest:</b>				
a. Balance due or (Overpayment) Taxes - (Line 16, Page 1)		(8,474.00)	(3,447.00)	
b. Penalties (Line 18) - computed to 10/03/2012				
c. Interest (IRC § 6601) - computed to 11/02/2012		0.00	0.00	
d. TMT Interest - computed to 11/02/2012 (on TMT underpayment)		0.00	0.00	
e. Amount due or refund - (sum of Lines a, b, c and d)		(8,474.00)	(3,447.00)	

Other Information:

Examiner's Signature: Name Tracy Weggeland	Employee ID: 1000261771	Office: Brookhaven Service Center	Date: 10/03/2012
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The Internal Revenue Service has agreements with state tax agencies under which information about federal tax, including increases or decreases, is exchanged with the states. If this change affects the amount of your state income tax, you should amend your state return by filing the necessary forms.

You may be subject to backup withholding if you underreport your interest, dividend, or patronage dividend income you earned and do not pay the required tax. The IRS may order backup withholding (withholding of a percentage of your dividend and/or interest payments) if the tax remains unpaid after it has been assessed and four notices have been issued to you over a 120-day period.

Catalog Number 23110T

www.irs.gov

Form **4549-A** (Rev. 5-2008)

## Appendix H - FOIA Administrative Appeal Sample Letter

Name or Company Name  
Your address  
Daytime phone number

Date

Agency Administrator  
Agency  
Address

### RE: FOIA Appeal

Dear Administrator:

This is an appeal under the Freedom of Information Act, 5 U.S.C. § 552.

On (date) I made a FOIA request to your agency for (brief description of what you requested). On (date), your agency denied my request on the grounds that (state the reasons given by the agency). Copies of my request and the denial are enclosed.

(When the agency delays:) It has been (state number) business days since my request was received by your agency. This period clearly exceeds the 20 days provided by the statute, thus I deem my request denied. A copy of my correspondence and the postal form showing receipt by your office are enclosed.

The information which I have requested is clearly releasable under FOIA and, in my opinion, may not validly be protected by any of the Act's exemptions.

(Here, insert legal and "public policy" arguments in favor of disclosure, if you wish. You are not required to make legal or policy arguments to support your appeal; if you simply state "I appeal" the agency will review the documents and the justifications given in the original denial. However, it is usually a good idea to try to persuade them to release the information. See the Federal Open Government Guide ([www.rcfp.org/fogg/index.php?i=ex1](http://www.rcfp.org/fogg/index.php?i=ex1)) for further information on any of the specific exemptions cited by the agency in their denial of your original request. The descriptions contained there should suggest arguments you can make to counter the agency's assertions.)

I trust that upon re-consideration, you will reverse the decision denying me access to this material and grant my original request. However, if you deny this appeal, I intend to initiate a lawsuit to compel disclosure. (Don't include this as an idle threat. But if you do intend to follow up with a lawsuit, say so. Often the agency will more closely consider its position when it knows it will have to defend it in court soon.)



As I have made this request in the capacity of a “other requester” in that I have Power of Attorney (enclosed please find a copy of my Form 2848) and this information is of timely value, I would appreciate your expediting the consideration of my appeal in every way possible. In any case, I will expect to receive your decision within 20 business days, as required by the statute.

Thank you for your assistance.

Very truly yours,

Your Name  
Firm Name