

Part III—Administrative, Procedural, and Miscellaneous

Industry Issue Resolution Program

Notice 2002-20

1. INTRODUCTION

This Notice invites submission of issues by taxpayers, representatives and associations for resolution under the Internal Revenue Service's *Industry Issue Resolution (IIR) Program*. Notice 2000-65, 2000-2 C.B. 599, announced the Industry Issue Resolution Pilot Program. The objective of the pilot program was to provide guidance to resolve frequently disputed tax issues common to a significant number of large or mid-size business taxpayers. This effort was part of the IRS's strategy to resolve issues in a manner other than the traditional post-filing examination process. Seven issues of the twenty-four submitted were selected for the pilot program. Thus far, five of the projects have resulted in published guidance.

After evaluating the pilot program and concluding that it was highly successful, the Service has determined that the IIR program should be made permanent. The objective is to provide guidance to resolve frequently disputed or burdensome issues and the program is expanded to address issues common to any size business taxpayers. The Large and Mid-Size Business Division (LMSB) and Small Business/Self-Employed Division (SB/SE) will jointly undertake the operational responsibility for the projects in the program.

Resolution of contentious issues other than by the examination process is a strategic goal of both LMSB and SB/SE.

Taxpayers, as well as industry associations and other groups representing taxpayers, are invited to suggest issues and possible options for resolution. Parties submitting suggestions may be asked to meet with government representatives and to provide additional information. After analysis and review, the Service, the Office of Chief Counsel and Treasury intend to select issues to address in the IIR program.

The form of resulting guidance may vary depending on the issue. However, the most likely form of guidance will be a Revenue Ruling or a Revenue Procedure that permits taxpayers to adopt a recommended treatment of the issue on future returns. In many cases, this may require filing a request for a change in method of accounting. For examples of the types of guidance that could be issued under this permanent program, see those published as a result of the IIR pilot program on the Digital Daily at www.irs.gov.

Suggestions for issues for the IIR program should be forwarded as provided in section 3 of this Notice by April 30, 2002. LMSB, SB/SE, the Office of Chief Counsel and Treasury will evaluate the suggestions with a view to selecting issues drawn from diverse industries. In reviewing potential issues for the program, the selection criteria will include the suitability of the issue for the program, the likelihood that timely guidance can be provided, and the availability of appropriate staffing and other resources. Projects selected for the program are expected to be included on the Treasury and IRS Guidance Priorities List for

the business plan year ending in 2003. The principal focus of the program is to resolve issues arising in future years. However, depending on the circumstances, resolution also may be provided for certain issues for prior years.

Parties whose topics are accepted will be notified and may be asked to provide additional information and legal analysis of the issue. The issues selected for the program will be announced publicly.

2. ISSUES APPROPRIATE FOR THE PROGRAM

The objective of the IIR program is to provide guidance to resolve frequently disputed or burdensome tax issues that are common to a significant number of business taxpayers. Therefore, issues most appropriate to the program generally will have two or more of the following characteristics:

- There is uncertainty about the appropriate tax treatment of a given factual situation.
- The uncertainty results in frequent, often repetitive examinations of the same issue.
- The uncertainty results in significant taxpayer burden.
- The issue is material and impacts a significant number of taxpayers, either within an industry or across industry lines.
- Factual determination is a major component of the issue.

The following issues are not suitable:

- Issues unique to one or a small number of taxpayers.
- Issues under the jurisdiction of the Commissioner, Tax Exempt and Government Entities Division (e.g., employee plans).
- Issues regarding transactions that lack a bona fide business purpose or are done with a significant purpose of reducing or avoiding federal taxes.
- Issues involving transfer pricing or international tax treaties.

3. REQUESTING CONSIDERATION UNDER THE IIR PROGRAM

No particular format is required for submissions in response to this Notice. However, submissions should briefly describe the proposed issue and explain why there is a need for guidance. Submissions may include an analysis of how the issue may be resolved. In addition, submissions should state the number of taxpayers estimated to be affected by the issue. All submissions will be available for public inspection and copying in their entirety. Therefore, comments should not include taxpayer-specific information of a confidential nature. Letters should include the name and telephone number of a person to contact should further clarification be needed. Issues previously submitted under the pilot program, but not selected, must be resubmitted to be considered for this permanent program.

Submission of issues for resolution under the IIR program should be e-mailed to PFTG2@IRS.gov. Alternatively, submissions may be faxed or mailed to:

Internal Revenue Service
Att'n: Alex Shojay
Office of Pre-filing and Technical Services
Large and Mid-Size Business Division LM:PFTG
Mint Building, 3rd Floor M-3-330
1111 Constitution Avenue NW
Washington, DC 20224
Fax: 202-283-8406

4. ADDITIONAL INFORMATION ABOUT THE PROGRAM

Project staffing. The Service and Treasury will staff each project with a team (the IIR team) that will analyze such information as may be appropriate and propose a resolution. This resolution will require the approval of those officials normally responsible for approving the type of guidance to be issued.

IIR team members will include appropriate personnel from LMSB and SB/SE, the Office of Chief Counsel, Appeals and Treasury. Other Service personnel, as needed, also may be team members. In some circumstances, the Service may find it necessary to hire outside experts.

Communication with requesting taxpayer or group and other interested parties. As part of its efforts to formulate a recommendation for a resolution position, the IIR team may meet with the submitting taxpayer or group, and possibly with other interested parties. It is anticipated that the submitting party and other interested parties will be given the opportunity to present factual data and legal analysis. The IIR team may seek additional factual development or legal analysis from the submitting party or other sources.

Any solicitation of input from affected persons will be done within the requirements of the Federal Advisory Committee Act (FACA). The Service does not intend to form advisory committees during this process. Input is welcome from interested parties, but they will not be invited to enter into negotiations or to participate in the decision-making process with respect to the proposed resolution of the issue.

Potential inspection of books and records. An IIR team may consider the inspection of an individual taxpayer's records desirable as part of the factual research necessary to develop its position. Although a team may request such inspection, any such inspection will be voluntary. Any inspection of a taxpayer's records under this program, whether at the initiative of the taxpayer or the team, will not preclude or impede (under § 7605(b) of the Internal Revenue Code or any

IRS administrative provisions) a later examination or inspection of records with respect to any tax year nor subject the IRS to any procedural restrictions (such as providing notice under § 7605(b)) that otherwise might apply before beginning such examination or inspection.

Disclosure of information provided by interested parties. Interested parties are encouraged to provide whatever information is necessary to permit the Service and Treasury to reach an appropriate resolution of an issue. However, this information may be subject to disclosure under the Freedom of Information Act (FOIA).

5. FURTHER INFORMATION

For further information regarding this Notice, contact Susan Blake, Senior Program Analyst, of the LMSB Pre-filing and Technical Services Office at (202) 283-8414 (not a toll-free number).