



DEPUTY COMMISSIONER

DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, DC 20224

November 16, 2020

Affected IRM: Part 25.5

MEMORANDUM FOR COMMISSIONER, LARGE BUSINESS AND INTERNATIONAL  
DIVISION  
COMMISSIONER, SMALL BUSINESS/SELF-EMPLOYED  
DIVISION  
COMMISSIONER, TAX EXEMPT AND GOVERNMENT  
ENTITIES DIVISION

FROM: Sunita Lough  
Deputy Commissioner for Services and Enforcement

SUBJECT: Use of Summons and Summons Enforcement in  
Syndicated Conservation Easement Cases,  
Reportable Transactions, and Other Abusive Tax  
Avoidance Transactions

Syndicated Conservation Easement transactions continue to be a service-wide priority, and the IRS is fully committed to identifying and pursuing this abuse. Our commitment to stopping abusive transactions is a service to all taxpayers who play by the rules and pay their fair share. In the case of Syndicated Conservation Easement transactions, the IRS's enforcement efforts also support the goals of legitimate conservation easements as envisioned by Congress; those goals are actively undermined by those taxpayers and promoters who engage in abusive arrangements. To that end, examiners should use all available administrative tools to gather information necessary for fair, timely, and comprehensive development of issues in these cases. The IRS has become aware that certain taxpayers and promoters of Syndicated Conservation Easement transactions are refusing to cooperate with examiners and impeding case development. Full development of the facts and issues in Syndicated Conservation Easement transaction cases is necessary for the IRS to accurately make its tax determinations and bring taxpayers, promoters, appraisers, and preparers engaged in this abuse into compliance with the tax law.

In the course of an examination or investigation, examiners will issue Information Document Requests (IDRs), and, in the vast majority of cases, taxpayers voluntarily produce information in response to these informal requests. However, if taxpayers do not cooperate with timely and complete responses to IDRs required for full case development, IRC 7602(a) gives the IRS the broad authority to issue an administrative summons to compel a taxpayer and a third party to produce the information in the form of documents or testimony or both. If necessary, examiners should follow existing procedures in IRM 25.5.2 to promptly issue summonses in consultation with their manager and Counsel, as appropriate.

Further, in the event the taxpayer does not fully comply with the summons, examiners should follow existing procedures in IRM 25.5.10 to promptly initiate summons enforcement. Examiners should consult with Counsel on all summons enforcement actions. While comprehensive, quality examinations are expected for each Syndicated Conservation Easement case, timely resolution is in the best interest of both the IRS and the taxpayer. When met with unnecessary delays to responses by the taxpayer, examiners should take appropriate steps to advance the examination.

It should be emphasized that examiners have the full support of the Office of the Deputy Commissioner for Services and Enforcement, the Office of Chief Counsel, and the Division leadership in SB/SE, LB&I and TE/GE in issuing and enforcing summonses, consistent with the procedures outlined in IRM 25.5.2. This is the case in connection with Syndicated Conservation Easement transactions, as well as other reportable transactions and abusive tax avoidance transactions. Further, examiners as well as managers are encouraged to make full use of training resources on summons and summons enforcement available in the IRS Knowledge Base and Integrated Talent Management system, as well as SABA sessions.

cc: Chief Counsel

National Taxpayer Advocate