



May 5, 2016

Internal Revenue Service
Attn: CC:PA:LLPD:PR (Notice 2016-26)
1111 Constitution Ave., N.W.
Washington, D.C. 20224

Dear Sir or Madam:

This letter responds to Notice 2016-26, which requested comments on items for inclusion in the 2016-2017 Priority Guidance Plan. CEETA is a coalition of companies and trade associations that seeks to effect constructive administrative and legislative changes to ineffective and inefficient IRS audit practices. More information can be found at www.eetax.org.

CEETA respectfully requests that proposed and temporary regulations issued under section 7602 on June 18, 2014, be withdrawn. Currently regulations under section 7602 appear as item 23 under Tax Administration on the 2015-2016 Priority Guidance Plan (including the Third Quarter Update released April 29, 2016). The proposed and temporary regulations would allow a contractor who has access to taxpayer information under section 6103(n) to conduct certain examination-related activities under section 7602.

Notice 2016-26 states that among the factors the Treasury Department and Internal Revenue Service (the Service) will consider in formulating the Priority Guidance Plan are “[w]hether the recommended guidance promotes sound tax administration” and “[w]hether the recommended guidance involves regulations that are outmoded, ineffective, insufficient, or excessively burdensome and that should be modified, streamlined, expanded, or repealed.” CEETA believes withdrawal of the regulations would satisfy both of these factors.

Treasury and the Service issued the proposed and temporary regulations after the Service hired an outside law firm to assist in the conduct of an examination. The regulations were met with some controversy, including among members of Congress who questioned both the legal basis for the regulations and the expenditure of resources for expensive outside lawyers. CEETA’s concerns with the proposed and temporary regulations are consistent with those expressed in a letter submitted by a number of trade associations on October 23, 2015, a copy of which is attached. CEETA believes the proposed and temporary regulations fall short on both policy and procedural grounds. In short, they will not promote more effective and efficient tax administration. Rather, the practice of hiring outside counsel to conduct examinations leads directly to a more contentious examination process, which will prolong the examination process instead of promoting sound tax administration.

Recently, Chief Counsel William Wilkins announced at a Tax Executives Institute conference that the Service did not have any current plans to hire any more outside law firms to assist with litigating tax cases. Allison Bennett, *No More Outside Counsel in Tax Cases, IRS Official Says*, BNA Daily Tax Report (March 15, 2015). Legislation has been introduced in both the House (by Congressman Katko) and Senate (by Senator Portman) to prohibit the hiring of outside counsel to conduct examinations. On April 20, 2016, the Senate Finance Committee approved legislation that includes a provision prohibiting the Service from hiring outside counsel to participate in an audit.

In light of the significant opposition to and concerns raised by the practice of hiring outside counsel and other contractors to conduct examinations of taxpayers, and Chief Counsel Wilkins' recent comments, we request that Treasury and the Service withdraw the proposed and temporary regulations.

If you have any questions, please do not hesitate to contact Karen Lapsevic at (202) 626-7809.

Sincerely,

CEETA