

# 2022 NATIONAL INCOME TAX WORKBOOK

CHAPTER 6: IRS ISSUES

PP. 205-252



## IRS ISSUES

P. 205

Issue 1: Employer Identification Numbers

Issue 2: IRS Transcripts

Issue 3: Tax Pro Account

Issue 4: Injured Spouse Relief

Issue 5: Liens and Levies

Issue 6: Cybersecurity

Issue 7: Gig Economy

## **Application**

- Business entities, employment/excise tax, nonprofits, household employers
- Form SS-4 - online, fax, mail, or phone (if international)
- One EIN per responsible party per day

### • **Responsible Party**

- Person who controls/manages entity and funds/assets
- Individual (natural person) unless govt entity
- SS-4 must include name and TIN of responsible party
- Changes reportable within 60 days – Form 8822-B

## ISSUE 1: EINS

P. 208

### • **Nominees**

- Limited authority to act on behalf of entity/no authority over assets
- Cannot obtain EIN for entity or authorize a third party
- If nominee used on SS-4 must identify responsible party - Form 8822-B

### • **Third-Party Authorization**

- May be designated to obtain EIN – authority terminates when EIN issued

## ISSUE 1: EINS - APPLICATIONS

PP. 208-209

### • **Online**

- EIN issued immediately
- Available if principal business, office/agency/legal residence is in US/territories

### • **Fax**

- Provide entity's fax number: EIN faxed within 4 business days
- No fax number provided: EIN mailed in about 2 weeks

### • **Mail**

- Assigned EIN sent within 4-5 weeks

**Telephone** – International applicants

### **Waiting for EIN**

- File with “Applied For” with date of application in EIN space
- Send any payments due to service center - name, address, type of tax, tax period, and date EIN applied for on check
- **Generally: Obtain new EIN if ownership/structure of business changes**
  - No new EIN if name changes

• **Sole Proprietorship needs new EIN if:**

- Subject to bankruptcy proceedings
- Incorporates or becomes partnership
- TP purchases/inherits existing business to operate as sole proprietorship
- NOT if name or location changes or operates multiple business



## ISSUE 1: EINS – NEW EIN NEEDED?

P. 210

### • **Corporation needs new EIN if:**

- Receives new charter
- Is subsidiary using parent's EIN or becomes a subsidiary of a corp.
- Changes to a sole proprietorship or partnership
- New corporation created after statutory merger

## ISSUE 1: EINS – NEW EIN NEEDED?

P. 210

### **Corporation does not need new EIN if:**

- Division of a corp. or surviving corp. using existing EIN after merger
- Elects to be S corp. or S revoking election
- Corp. reorg and only identity or place changes
- Conversion at the state level and structure unchanged

## ISSUE 1: EINS – NEW EIN NEEDED?

P. 210

- **Partnership needs new EIN if:**

- Incorporates or becomes a sole proprietorship
- Partnership ends and a new one begins
- *NOT if* declares bankruptcy or changes name/location

## ISSUE 1: EINS – NEW EIN NEEDED?

P. 210

- **LLC needs new EIN if:**

- New LLC formed with > 1 owner
- New LLC formed and elects C or S status
- New LLC with 1 owner if it has excise tax or employment tax requirement

## ISSUE 1: EINS – NEW EIN NEEDED?

PP. 210-211

### **LLC does *not* need new EIN if:**

- Is branch/division of corporation/other entity w/no employees or excise tax
- Existing PS converts to an LLC filing as a PS
- Existing LLC with EIN chooses to be taxed as C corp. or S corp.
- New LLC with 1 owner has no employees or excise tax liability

## ISSUE 1: EINS – NEW EIN NEEDED?

P.211

### **Practitioner Note**

Single Member LLC and Sole Proprietor

Apply for EIN for:

- Banking or State Tax Purposes
- Preserve SSN Confidentiality

## ISSUE 1: EINS – NEW EIN NEEDED?

P. 211

### **Estate needs new EIN if:**

- Trust is created with estate funds
- Estate operates a business after owner's death
- *NOT if* administrator, personal rep., or executor changes name/address

## ISSUE 1: EINS – NEW EIN NEEDED?

P. 211

### **Trust needs new EIN if:**

- One person is grantor/maker of many trusts
- Trust changes to an estate
- Living or inter vivos trust changes to testamentary trust
- Living trust terminates by distributing its assets to residual trust
- *NOT if* change in name/address of the trustee, grantor, or beneficiary



## ISSUE 1: EINS – NEW EIN NEEDED?

P.211

- **Lost or Misplaced EIN**
  - Check with bank or state agency where used
  - Copy of prior-year tax return
  - Ask the IRS to search – (800)829-4933 – 7a.m. to 7p.m. local time

- **Closing a Business Account**
  - IRS cannot cancel an EIN
  - Letter to IRS – complete legal name, EIN, business address, reason for closing
    - Enclose copy of EIN assignment notice if possible
  - All \$\$ due must be paid and any returns due must be filed before closing

## ISSUE 2: IRS TRANSCRIPTS – TYPES

P. 212

- **Tax Return Transcript**

- Most line items from original 1040 – no changes

- **Tax Account Transcript**

- Basic data plus changes made after original return was filed

- **Record of Account Transcript**

- Combination of Tax Return and Tax Account Transcripts

- **Wage and Income Transcript**

- Data from information documents: W-2, 1098, 1099, 5498

- **Masked Transcripts**

- PII of any individual listed on transcript partially masked
- As of 12/13/2020, business tax transcripts similarly masked
- All \$ amounts visible

## ISSUE 2: IRS TRANSCRIPTS – SECURITY FEATURES

P. 213

- **Unmasked Transcripts**
  - If by mail, sent only to TP's address as shown in IRS records
  - Authorized Tax Prof: Use PPS – transcript sent to SOR mailbox
  - Authorized ERO / Circular 230 practitioner: request & receive through TDS
- **Customer File Number**
  - Takes place of SSN – created by third-party, taxpayer, professional

## ISSUE 2: IRS TRANSCRIPTS - CODES

P. 213

- **Transaction Codes**
  - Description in transcripts
  - More detail: Document 6209 (comprehensive), Document 11734 (pocket guide)

## ISSUE 2: IRS TRANSCRIPTS - REQUESTING

PP. 213-214

- **Individual Taxpayers**

- Get Transcripts Online (fastest): Need online account
- Get Transcripts by Mail (5-10 calendar days): Online, mail/fax 4506-T, call automated phone service (800) 908-9946
- NOTE: Cannot be forwarded – file Form 8822 to change address first

## ISSUE 2: IRS TRANSCRIPTS – REQUESTING

P. 214

- **Business Taxpayers**
  - Request by phone, fax, or mail: All transcripts mailed (no online request)
  - Separate Form 4506-T needed for each tax year
- **Tax Practitioners**
  - Through PPS, mail/fax Form 4506-T, TDS to SOR or TP's address in records



## ISSUE 3: TAX PRO ACCOUNT

PP. 217-218

- **Real-time posting of Forms 2848 and 8821** – all digital (Fax, mail, and online submissions options remain)
- **Benefits:** See list – page 217
- **Taxpayer must have Online Account**
  - Access Tax Records
  - Make/View Payments
  - Manage Communication Preferences
  - Digital Authorizations
  - SEE PN page 218 – OK to submit before taxpayer has online account

## ISSUE 3: TAX PRO ACCOUNT

PP. 218-219

- **Creating Online Account**
  - Requires photo ID
  - ID.me or live, virtual interview with agents
  - See PN page 219 – working towards login.Gov

## ISSUE 3: TAX PRO ACCOUNT

P. 219

- **Digital Authorization Process (individual taxpayers only)**
  - Tax professional must have CAF number & be in good standing with IRS
  - Taxpayer and professional must have US address
  - Tax professional initiates request – all info must match IRS records
  - TP approves (or rejects) request

## ISSUE 4: INJURED SPOUSE RELIEF

P. 220

- **Injured Spouse**
  - Does not receive his/her share of joint refund because refund applied (or expected to be applied) to other spouse's debt
  - File request for relief with original return or separately after return filed

## ISSUE 4: INJURED SPOUSE RELIEF

P. 220

- **Offset Debts**

- Unpaid federal tax liability (IRS)
- Unpaid federal non-tax debt (BFS through TOP)
- Past-due child support (BFS through TOP)
- Past-due legally enforceable state income tax obligations (BFS through TOP)
- Unemployment compensation debts (BFS through TOP)

## ISSUE 4: INJURED SPOUSE RELIEF

PP. 220-221

### **Debt Priority**

1. All federal tax debt – priority within tax debts listed p. 220
2. Past-due child support
3. Debt owed to other federal agencies
4. Past-due legally enforceable state income tax obligations
5. Unemployment compensation

### **Practitioner Note (p.221):**

Information on offsets from BFS's TOP call center

## ISSUE 4: INJURED SPOUSE

PP. 221-222

### **Must meet all three of the following:**

1. Filed a joint return
2. Not liable for spouse's past-due debt to which overpayment applied
3. Made & reported payments or claimed refundable credits on return

**IRS interactive assistant to determine if qualified – Figure 6.4**

## ISSUE 4: INJURED SPOUSE

P. 222

### **File Form 8379 with return or separately**

#### **Form 8379 with return:**

- Note “Injured Spouse” in upper left of page 1
- Attach to return based on sequence number
- May be filed with paper or electronic returns



## ISSUE 4: INJURED SPOUSE

P. 222

### **Form 8379 filed separately:**

- Attach copy of all W-2s and 1099s showing federal withholding
- Do NOT attach copy of joint return
- Both spouses' TINs in the same order as on joint return
- Injured spouse signs the form

## ISSUE 4: INJURED SPOUSE

P. 222

- File by later of 3 years from return due date (w/ext.) or 2 years from date tax paid that was later offset
- IRS service center where original return filed or if electronic return, to IRS service center for where TP lives
- Cannot be filed at a Taxpayer Assistance Center

### **Form 8379 Allocations**

- Joint overpayment allocated to each based on contribution to overpayment
- Share of joint liability based on each spouse's MFS liability
- Must allocate all joint return items between spouses – Form 8379, Part III
  - Use joint return amounts even if item limited or not allowable on MFS
  - If taxpayer does not allocate, IRS will allocate 50/50

## • **Noncommunity Property Allocations**

### • Income:

- Wages - Allocate as would for MFS returns
- Joint income - TP chooses allocation
- Other income – Allocate as would for MFS returns
- Must identify the type and amount of income

• **Noncommunity Property Allocations**

• *Deductions and Adjustments:*

- Allocate as would for MFS returns (includes itemized deductions)
- Joint deductions - TP chooses allocation
- Standard deduction allocated 50/50
- QBI allocated to spouse with the business income

## **Noncommunity Property Allocations**

- Credits

- All credits allocated except EIC (IRS will allocate)
- Credits follow claim for dependent
- Business credits based on interest in business
- All other credits TP's choice

## ISSUE 4: INJURED SPOUSE

P. 224

### • **Noncommunity Property Allocations**

- Taxes:

- SE tax to spouse with SE income
- Excess APTC repayment allocated as TP chooses
- NII tax allocated as net investment income allocated

## ISSUE 4: INJURED SPOUSE

P. 224

### **Noncommunity Property Allocations**

- Tax Payments:
  - Withholding to spouse who paid the withholding (income, excess soc. sec., tier 1 RR retirement, additional Medicare tax)
  - Separate estimates allocated to paying spouse
  - Joint estimates allocated however spouses agree (if not, formula p. 224)



## ISSUE 4: INJURED SPOUSE

PP. 224-227

### Example 6.1 – Form 8379 Allocations

- George & Lena Short – \$1,700 refund offset for George's past-due child support
- Two children – ages 1 and 3
- Figure 6.5 shows joint return amounts
  - Wages: George \$33,000 – Lena \$20,000
  - IRA: George's IRA contribution
  - Interest income on joint account
  - Jointly owned real estate rental loss (\$1800)

Figure 6.6 – Page 226 - Form 8379, Parts I and II (Note items 11 and 12)

Figure 6.6 – Page 227 – Form 8379, Part III

## ISSUE 4: INJURED SPOUSE

P. 228

### • **Community Property Allocations**

- Items allocated equally unless derived from separate property
- State laws differ on amount of joint overpayment to apply to federal tax debt
- Figure 6.7 – P. 228 – Table of revenue ruling guidance for community property states
- See also Revenue Ruling 85-70 and I.R.M. 25.18.5

### • **IRS determines injured spouse's refund**

- Can request copy of the Injured Spouse Claim Worksheet

## ISSUE 4: INJURED SPOUSE

PP. 228-229

### • **Example 6.2 – Injured Spouse Claim Amount**

- Joint liability of **\$13,004**      Refund \$2,996
- Art: withholding of \$6,000    Bea: withholding of \$2,000
- Joint estimated payment of **\$8,000**
- Art's unpaid federal tax liability prior to their marriage:  
\$5,000

## ISSUE 4: INJURED SPOUSE

PP. 228 - 229

### **Example 6.2 – Injured Spouse Claim Amount**

- Tax liabilities if MFS: Art - \$10,302 Bea - \$3,334 (Total: \$13,636)
- Figure 6.8 – P. 229 – allocation of estimated payment, computation of each spouse's contribution and share of joint liability
- Share of refund = Contribution less share of liability

## ISSUE 4: INJURED SPOUSE – EXAMPLE 6.2

P. 229

Estimated payment allocation (using MFS liabilities):

**Bea:**  $3,334 / (10,302 + 3,334) \times \$8,000 = \$1,956$

**Art:**  $10,302 / (10,302 + 3,334) \times \$8,000 = \$6,044$

Contributions:

**Bea:**  $\$2,000 \text{ w/hg} + \$1,956 \text{ est.} = \$3,956$

**Art:**  $\$6,000 \text{ w/hg} + \$6,044 \text{ est.} = \$12,044$

## ISSUE 4: INJURED SPOUSE – EXAMPLE 6.2

P. 229

Share of Joint Liability (using MFS liabilities):

**Bea:**  $3,334 / (10,302 + 3,334) \times \$13,004 = \$3,179$

**Art:** \$9,825 (same formula)

Share of \$2,996 Refund:

**Bea:**  $\$3,956 - \$3,179 = \mathbf{\$777}$

**Art:**  $\$12,044 - \$9,825 = \mathbf{\$2,219} = \mathbf{Joint\ overpayment\ amount\ for\ offset}$

## ISSUE 5: LIENS AND LEVIES – FEDERAL TAX LIEN

P. 230

- Arises when assessed tax is unpaid
- Attaches to all property and rights to property of the TP
- Automatically attaches to any property acquired during lien existence
- Estate & Gift tax liens

### **Notice of Federal Tax Lien (NFTL)**

- IRS files to establish priority over other creditor claims
- Real property: Filed where property located
- Personal property: Filed where TP resides
  - For corp. or PS, residence = location of principal executive office
  - For international TP, residence = Washington, D.C.



## ISSUE 5: LIENS AND LEVIES – FEDERAL TAX LIEN

PP. 231-233

### Notice of filing NFTL – Letter 3172

- Within 5 days
- In person, @ residence/business, certified or registered mail to last known address
- Tax lien continues until liability paid or until CSED
  - If claim reduced to a judgment, collection period expires when paid
  - State statutes do not affect duration or existence of FTL
  - Self-release 30 days after original CSED but may be refiled

## ISSUE 5: LIENS AND LEVIES – FEDERAL TAX LIEN

P. 233

TP 6 options after NFTL (see list – p. 233)

### **Payment in Full**

- IRS must release within 30 days → Certificate of Release of FTL
- No certificate? Contact Centralized Lien Operation, write to advisory office
- If need immediate release: Contact local office

## ISSUE 5: LIENS AND LEVIES – FEDERAL TAX LIEN

P. 233

### • **Appealing the NFTL**

- Deadline 30 days after Letter 3172
  - Form 12153 – CDP hearing - Levy prohibited, CSED suspended
  - Form 9423 – CAP hearing – After manager conference (3 days)
  - Faster result but cannot be appealed in court

## ISSUE 5: LIENS AND LEVIES – FEDERAL TAX LIEN

P. 233

### **Release of Lien**

- Full payment of liability
- Post a bond to secure payment – requires approved surety company
- Payment terms of offer in compromise met
- CSED expired

- **Withdrawal** - Removes NFTL from public record - lien and TP's liability remains
  - Installment agreement
  - Will help taxpayer pay the liability
  - IRS in error
  - Apply: Form 12277 → Approved - Form 10916(c) Denied – Letter 4711

**Discharge of the NFTL**

1. Value of TP's remaining property  $\geq 2 \times$  (federal liability + superior liens)
2. Liability partially satisfied by \$ not  $<$  value of govt's interest in property
3. Govt's interest has no value
4. Sale proceeds to be held
5. 3<sup>rd</sup> party with ownership interest makes deposit/bond = govt's interest in property

## **Discharge of the NFTL**

- Apply: **Form 14135**
  - Note if to avoid foreclosure (IRS will try to expedite)
  - IRS Publication 783
- Denied: Letter 4025 – Appeal through CAP

**Discharge of the NFTL**

1. *Value of TP's remaining property  $\geq 2 \times$  (federal liability + superior liens)*
  - No payment required
  - Must be in filing compliance, current in payments, balance due accts addressed



## **Discharge of the NFTL**

### *2. Partial Payment*

- TP must be divested of all interest in the property
- Can decrease value by necessary sale expenses
- May request relocation expense allowance if principal residence – Form 12451
- **Example 6.3** – p. 235 – IRS lien of \$203,000
  - IRS interest = \$215K (sale offer) - \$135K (superior lien) - \$15K (sale costs) = \$65K

### **Discharge of the NFTL**

#### 3. *No Value*

- Ex. Short sale – senior lienholder agrees to accept < total owed
- Must submit escrow agreement with the application

### **Discharge of the NFTL**

#### *4. Substitution of Sale Proceeds*

- Sale proceeds held in fund
- **Ex. 6.4**
  - Priority: Mtg \$32K, Mtg \$5K, IRS \$40K, Mech. Lien \$3K
  - Certificate of discharge when \$40,000 placed in approved escrow account

## ISSUE 5: LIENS AND LEVIES – FEDERAL TAX LIEN

P. 235

### **Discharge of the NFTL**

#### 5. *Substitution of Value*

- Available to third-party owner
- Provision not available to TP

Note: Estate or gift tax lien release – Application: Form 4422

## ISSUE 5: LIENS AND LEVIES – FEDERAL TAX LIEN

P. 236

### **Subordination of FTL**

1. TP pays IRS amount = lien or interest to be subordinated
  - Ex.: Refinancing to pay toward tax liability – propose to pay IRS cash out
2. IRS determines subordination will make collection of tax easier
  - Ex: Reduced loan payment allows larger monthly payments to IRS
  - **Ex. 6.5:** Loan \$ to repair deteriorating unsalable building only if priority over IRS
3. IRS determines govt adequately secured after subordination of an estate tax lien

## ISSUE 5: LIENS AND LEVIES – FEDERAL TAX LEVY

P. 236

- Application: Form 14134
- Denied: Letter 4027 – Appeal through CAP

### **Federal Tax Levy**

- Levy authorized 10 days after notice and demand
- Can levy any property unless exempt

## ISSUE 5: LIENS AND LEVIES – FEDERAL TAX LEVY

P. 237

### **Requirements for IRS Levy:**

1. Tax assessed and Notice and Demand for Payment sent to TP
2. TP neglected or refused to pay
3. TP given levy notice 10 days after demand and  $\geq 30$  days before levy
  - In person, left at home/business, sent by certified/registered mail

Notice and Demand may be issued with Notice of Intent to Levy  
Levy without notification if collection in jeopardy

### **Property Subject to Levy**

- All property or rights to property unless exempt
- Continuous levy
  - Served once, in effect until full pay or CSED
  - Wages, salary, commissions, Federal Payment Levy Program, Fed. Annuities & Social Security
  - PN: Levy on Social Security continues after CSED
    - Fixed & determinable right to future payments at time of levy
    - See Reg. §301.6343-1(b)(1)(ii)



## ISSUE 5: LIENS AND LEVIES – FEDERAL TAX LEVY

P. 238

### **Property Subject to Levy**

- Bank/Investment accounts – balance at time levy delivered
- 21-day hold
- House, car, other property – seizure and sale

### **Property Exempt from Levy**

- Specified by IRS §6334 (see list – page 238)

## ISSUE 5: LIENS AND LEVIES – FEDERAL TAX LEVY

P. 238

### **Property Exempt from Levy**

Seizure of Principal Residence (of TP, spouse, former spouse, minor child)

- Exempt if deficiency  $\leq$  \$5,000
- Must have judicial approval
- IRS to show law/procedures met, liability is owed, no collection alternative

### **Property Exempt from Levy**

#### • Seizure of Business Assets

- Exempt unless area director approves levy or if collection of tax in jeopardy

### **Avoiding a levy**

- Make full payment, installment agreement, OIC approved
- Establish hardship for currently-not-collectible status

## ISSUE 5: LIENS AND LEVIES – FEDERAL TAX LEVY

P. 239

### • **Levy release required if:**

1. Liability paid in full
2. Levy issued after CSED
3. Release facilitates collection
4. Installment agreement
5. Creates economic hardship
6. Property value > liability, release does not hinder collection

## ISSUE 5: LIENS AND LEVIES – FEDERAL TAX LEVY

P. 239

### **Ex. 6.6 – Facilitate Collection**

- Levy served on stock account holding cash & stock options
- Cash is enough to exercise options
- Levy released to allow exercise and sale of shares
- New notice to attach to sale proceeds to pay liability

ISSUE 5: LIENS AND LEVIES – FEDERAL TAX LEVY PP. 239-240

**Ex. 6.7 – Economic Hardship**

- Levied bank account of \$600
- Eviction notice – unpaid rent of \$600 due immediately

## ISSUE 5: LIENS AND LEVIES – FEDERAL TAX LEVY

P. 240

### **Appealing a Levy**

- 30 days from notice to request a CDP hearing – Form 12153
- 30 days from Appeals determination to appeal to Tax Court
- May appeal through the CAP (no appeal)

## ISSUE 5: LIENS AND LEVIES – FEDERAL TAX LEVY

P. 240

### • **Recovery of Wrongfully Seized Property**

- If not sold, return anytime
- If sold, \$ received returned within 2 years of date of levy w/interest
  - No interest if levy released for reasons listed on p. 240



### **Retirement Plan Levies**

- Interest paid regardless of reason for release
- Can contribute money/property received back to plan
  - Rollover if by due date (w/o ext.) of return for year returned to TP
  - Treated as made in year of distribution for levy
- Interest from IRS treated as earnings on the plan and not taxable

- **Wrongful Seizure – 3<sup>rd</sup> Party**

- Administrative claim – letter to IRS advisory group (see p. 241 for details)
  - If rejected → Appeal through CAP
- Civil action – must exhaust admin remedies first
- Publication 4528

## ISSUE 5: LIENS AND LEVIES – FEDERAL TAX LEVY

P. 241

### **Reimbursement of Bank Charges – Wrongful Levy**

- Form 8546 – limited to \$1,000
- Within 1 year of date claim accrues
- Include copy of levy and bank records
- Qualifies if:
  - IRS acknowledges levy erroneous
  - TP did not contribute or compound the error
  - Prior to levy, TP responded timely to IRS

## ISSUE 6: CYBERSECURITY – COMMON SCAMS

P. 242

### **Economic Impact Payment Theft**

- Attempt to get PII under guise of some “federal” payment
- Text, call, email – requesting data verification

### • **Unemployment Fraud**

- Questionable Form 1099-G – contact state
- Report only unemployment actually received

## ISSUE 6: CYBERSECURITY – COMMON SCAMS

P. 242-243

### • **Phishing Scams**

- Fake emails, text messages, websites, social media
- Appear to be from IRS, new client, tax software company –  
Figure 6.9

### **Fake Charities**

- Solicit by text, email, phone
- Online search directs to fake website or social media page
- IRS Tax Exempt Org Search to find/verify qualified charities

## ISSUE 6: CYBERSECURITY – COMMON SCAMS

P. 243

### **Offer in Compromise Mills**

- Excessive fees
- Beware: Claims their services needed, limited window of time etc.

### **Abusive Tax Schemes**

- Large deductions with exorbitant fees
- IRS Office of Promoter Investigations

## ISSUE 6: CYBERSECURITY – COMMON SCAMS

P. 244

### **Google Voice Verification Scam**

- Google Voice – sets up virtual phone number
- Targets: online listers, owners of lost pets, dating websites
- Calls or texts – wants to buy/found pet - needs to verify individual
- Will send Google authentication code & target to text it back

### **Google Voice Verification Scam**

- If target responds, can create Google Voice # linked to target's phone #
- Scammer then uses number in fraudulent ads or other criminal activity
  
- Victims report to FBI at [www.ic3.gov](http://www.ic3.gov) or call local FBI office
- Google Voice website provides way to take back control



## ISSUE 6: CYBERSECURITY – REPORTING SCAMS

P. 244

### **IRS imposters**

- TIGTA at [www.tigta.gov](http://www.tigta.gov) or (800) 366-4484
- Phone # of caller/callback, communication description, name & badge number given, date, time, location
- Possibly file with FTC, FCC or local Attorney General via online complaint forms

## ISSUE 6: CYBERSECURITY – REPORTING SCAMS

P. 244

### **IRS-related emails**

- Forward to [phishing@irs.gov](mailto:phishing@irs.gov) – with full email header, if possible
- If requesting W-2 info, also forward to FBI – <http://www.ic3.gov>
- If not IRS-related, forward to [reportphishing@apwg.org](mailto:reportphishing@apwg.org)

## ISSUE 6: CYBERSECURITY

P. 244

### **If malicious code suspected in email**

- Forward to recipient's internet service provider's abuse department
- Report at [ww.ftc.gov/complaint](http://www.ftc.gov/complaint)

### **Protecting Client Data**

- Pub 4557, *Safeguarding Taxpayer Data*
- Pub 1345, *Handbook for Authorized IRS e-File Providers*
- National Institute of Standards and Technology, *Small Business Income Security: the Fundamentals*

## ISSUE 6: CYBERSECURITY

P. 245

### **Protecting Client Data**

- Additional steps – list p. 245

### **Signs of a Data Breach** – list p. 245

Take action immediately

- Pub. 4557 and FTC's *Data Breach Guidance: A Guide for Business*

## ISSUE 6: CYBERSECURITY – DATA BREACH

P. 245

### **Contact IRS and Law Enforcement**

- Contact IRS stakeholder liaison (they contact IRS CID)
- Contact FBI if directed by IRS
- Contact local police
- If ransomware attack, contact IRS and FBI
- Other suspicious activity – Cybersecurity & Infrastructure Security Agency

## ISSUE 6: CYBERSECURITY – DATA BREACH

P. 246

- 1. Email the Federation of Tax Administrators for state information**
- 2. Contact security experts and insurance company**
- 3. Contact clients – at time advised by law enforcement**
- 4. Determine if state requires the offer of credit monitoring/identity theft protection**

## ISSUE 7: GIG ECONOMY

P. 247

Online platforms/apps for variety of services/goods

### **Influencers (creators)**

- Promote/recommend products/services thru social media
- Generate income thru sponsorships, advertising, subscriptions, tips
- Create content to post on platforms

## ISSUE 7: GIG ECONOMY

P. 247

### • **Streamers**

- Play games – online video platforms
- Revenue from sponsorships, advertising, subscriptions, tips, donations

### **Classification of GIG worker**

- Typically treated as independent contractor



## ISSUE 7: GIG ECONOMY – IC VS EE

PP. 247-248

### Classification tests

- Behavioral – right to control
  - Financial – how is worker paid, who pays expenses, who provides tools
  - Type of Relationship – contract, benefits, work is key aspect of business?
- SS-8 by worker or business for status determination

## ISSUE 7: GIG ECONOMY – FORM 8919

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TP believes improperly treated as IC, Form 8919 to pay EE share of FICA if:

1. Services performed for a firm,
2. TP believes pay was not for services as IC,
3. No social security/Medicare taxes withheld, AND

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1. One of the following applies:

- TP filed Form SS-8 & determined employee
- TP received other correspondence from IRS indicating EE status
- TP filed Form SS-8 and has no response yet
- TP received W-2 & 1099 from firm & 1099 \$ should have been on W-2

Information re: who paid, reason, correspondence date included on 8919

## ISSUE 7: GIG ECONOMY – TAX ISSUES

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### **Income taxable**

- Part-time, temporary
- not on W-2/1099
- noncash payment or virtual currency
  
- Income tax, SE tax, estimated payments

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### **Streamers/Influencers**

- Brand pays for featuring product, using product, attending events
- Advertising fees
- Create or co-create product line for sale
- Online seminars or live online events
- Digital products – e-books, online tutorials
- Subscription fees, donations, and tips

## ISSUE 7: GIG ECONOMY – TAX ISSUES

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### **SE Tax**

- Derived from T or B: continuity & regularity, for profit
- Tax: 15.3% of 92.35% of net earnings from SE of  $\geq$  \$400
  - \$147,000 max in 2022 for 12.4% OASDI
  - No limit on 2.9% Medicare
  - Additional Medicare: .9% above \$250,000 (MFJ), \$125,000 (MFS), \$200,000 (Single or HoH)

## ISSUE 7: GIG ECONOMY – TAX ISSUES

PP. 250-251

### **Estimated Tax Payments if:**

- Expects to owe at least \$1,000
- \$ paid in to be < smaller of 90% current year tax or 100% of prior year tax
- PN (P. 251) Adjust w/hg on job instead – treated as paid ratably over the year

## ISSUE 7: GIG ECONOMY – TAX ISSUES

PP. 251-252

### **Recordkeeping**

- Pub 583, *Starting a Business and Keeping Records*
- Retain until SOL expires

### • **Reporting Payments to Gig Worker**

- Form W-9 to secure and certify TIN
- Form 1099-NEC to report nonemployee comp -  $\geq$  \$600
- Form 1099-K for Payment cards/3<sup>rd</sup> party networks -  $\geq$  \$600

### • **IRS Gig Economy Tax Center, Self-Employed Tax Center**



IRS ISSUES

•  
**QUESTIONS??**

