

IRS Pre-Filing Agreements Consultation

Your issue

How many times, as your company prepares its federal tax return, do you believe — instinctively or through experience — that a position taken on a particular transaction may raise an issue in a post-filing review? How will the new disclosure of uncertain tax positions on the income tax return impact the Internal Revenue Service (IRS) view on this position? Although such a review likely will not occur for two to three years, you may have concerns now about the currency and retainability of records and keeping track of key players involved in the transaction.

Bottom line, you know that it will cost your company money and resources to resolve the issue, not to mention suffering the uncertainty of the potential tax burden itself. Shouldn't there be a better way to handle it?

If your company is subject to the jurisdiction of the Large Business and International Division of the IRS, it may be eligible to participate in the PFA program.

To increase the efficiency of the examination process, the IRS is striving to resolve tax controversy issues more promptly by employing alternative issue resolution tools. These issue resolution programs offer considerable benefits to both taxpayers and the IRS. One such program is the Pre-Filing Agreement (PFA).

With PFAs, taxpayers and the IRS work together prior to the filing of the return to resolve the tax treatment of issues that would typically be disputed during a post-filing

examination. PFAs can be especially worthwhile in resolving issues such as:

- The deductibility of merger and acquisition costs.
- The amount of qualified research and experimental credit.
- Worthless securities and bad debts.
- Ordinary versus capital loss of the sale of property.
- The treatment of license fee income.
- The gain or loss on the sale or exchange of stock or property.
- Asset class life and recovery period decisions in cost segregation studies.
- Built-in gains valuations and calculations.

Utilizing the IRS Pre-Filing Agreement program to resolve these and other issues may allow your company to reduce the costs, burdens, and delays often associated with issues disputed during an IRS examination post filing. Other potential benefits include:

- Reduced data-gathering and examination time because both the supporting documentation and the people involved in the transaction would be still available for questions and clarification.
- A cooperative environment in which to resolve potentially contentious issues more efficiently.
- Faster post-filing examination cycle times if potentially significant issues have already been resolved.

Another benefit to seeking a PFA is the possibility that it can cover multiple years. Under the program, eligible taxpayers may request a PFA for the current taxable year, any prior year for which the original return is not yet due, taking into consideration any extensions of time to file, and for four taxable years beyond the current taxable year. This feature of the PFA program has opened the door for discussions of using a methodology for certain transactions as opposed to reviewing only the facts of a single year.

Our approach

If your company is subject to the jurisdiction of the Large Business and International Division of the IRS, it may be eligible to participate in the PFA program. The Tax Controversy specialists at Deloitte can help you understand your PFA opportunities and how to pursue an agreement. Specifically, they can:

- Analyze the tax technical aspects of the transaction in question to determine if a PFA is appropriate.
- Prepare your PFA application and provide support to you during the review and approval process.

Crucial to a successful PFA is applying well in advance of the anticipated return filing date. The objective is to have the entire process completed and the agreement in place by the time you file your federal tax return.

Typically, this means garnering the resources to lay out the issue, making the application, interacting with the IRS as they review the application, and advancing it to the approval stage in a compressed timeframe. For many companies, completing all these steps within a tight timeframe can be difficult given the complexity of the issues that companies generally address in a PFA and the daily pressures that most tax departments face. We can help smooth this process and make it as efficient and timely as possible.

Keep in mind that not all issues are eligible for the PFA program. For example, items covered by the Advance Pricing Agreement process are ineligible. Generally, the IRS will consider entering into a PFA on issues that require either a determination of facts or the application of well-established legal principles to known facts.

Still, the value of the PFA lies in the certainty that it brings to the position you want to take and the ability to arrive at that certainty using fewer resources and less money than you would in a post-filing review. To decide which issues to address through a PFA and how to use the process most efficiently, look to the Tax Controversy Services professionals at Deloitte.

The Deloitte difference

When dealing with pre-filing agreements, as well as other tax controversy issues that may arise in your organization, consider our team. We offer:

- Significant experience in helping companies apply for, and undergo, IRS review of PFAs.
- The insights and experiences of many former senior IRS officials, revenue agents, and group managers.
- Tax technical experience in the areas most likely to qualify for a PFA.
- A flexible and collaborative approach for filing PFAs that has delivered strong results to organizations of all types.
- Seamless integration with other tax specialists who may be advising you on your situation.
- Timely updates through [IRS Insights](#), a bimonthly newsletter covering the latest IRS practices and procedures.

For more information

To learn more about how Deloitte's Tax Controversy Services professionals can assist you, contact us at tcs@deloitte.com or visit us at www.deloitte.com/us/tcs.

