

Tax Notes Today

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OPR EXPANDING, ASPIRES TO OPEN REGIONAL OFFICES, HAWKINS SAYS

By Shamik Trivedi

The IRS Office of Professional Responsibility is ramping up its hiring for 2012 and 2013 and expects to be fully staffed by 2014, OPR Director Karen Hawkins said May 3.

Once staffing is complete, OPR will have 76 people enforcing Circular 230 against hundreds of thousands of tax practitioners. The office currently has to make do with about 30 people, Hawkins said at the American Institute of Certified Public Accountants Small Business Practitioners Tax Conference in Las Vegas.

OPR aspires to create several regional offices as well, Hawkins said. Ideally, OPR will have a presence on the West Coast and at least two offices in the Midwest, she said, although she acknowledged that the IRS's budgetary situation will affect those goals. IRS Commissioner Douglas Shulman has called for increased funding of OPR, and in November said he intended to add resources devoted to professional responsibility issues. (For prior coverage, see *Doc 2011-23553* or *2011 TNT 217-1*.)

Hawkins said OPR plans to focus on enforcement of section 10.36(b) of Circular 230, which requires that firms in the practice of preparing tax returns, claims for refunds, or other documents ensure that proper procedures are in place to guarantee compliance by their employees. OPR has already requested documentation of return preparation procedures from at least one large law firm, she said.

OPR has also maintained a "behind the scenes" presence with both the Justice Department and state attorneys general. It assisted the California Attorney General's Office with the injunction against "Tax Lady" Roni Deutch, and played a key role in the injunction against California-based American Tax Relief. Hawkins said it will continue to investigate tax debt resolution companies. (For prior coverage, see *Doc 2011-19653* or *2011 TNT 181-4*.)

"These are the people who are on [television] at one or two o'clock in the morning promising pennies on the dollar" for tax settlements, IRS Small Business/Self-Employed Division Commissioner Faris Fink said at an earlier panel. Clients are harmed because they pay a fee but are not properly represented, he said. "We're working with the Federal Trade Commission right now," he added.

Fink encouraged practitioners to contact the Treasury Inspector General for Tax Administration, the IRS's fraud hotline, or a trusted IRS revenue officer if they suspect fraud is being committed.

Professional Responsibility and Reputation

At a separate panel, Hawkins addressed "contemptuous conduct" by practitioners under section 10.51(a) of Circular 230. "Just because someone is obnoxious does not mean they should be sent to OPR," she said. Clients are entitled to zealous representation, but practitioners may cross the line by threatening or attempting to intimidate a revenue agent, she said.

OPR has received complaints from the field about difficult practitioners, and when the office receives multiple complaints, it investigates, she said. Typically, OPR will send a letter reminding the practitioner of his professional responsibilities and proper decorum, she said.

Caroline D. Ciruolo of Rosenberg Martin Greenberg LLP said revenue agents take notes during conversations with practitioners. The notes stay in the case file and will be read by other revenue agents working the case, she said.

"We get transcripts of voicemail messages, and people say the most extraordinary things," Hawkins said. She added that if a practitioner is too threatening on the phone, OPR may be the least of their concerns. "If it gets too dicey, I tell [the revenue agent] to go to TIGTA," which takes threats against federal employees seriously, Hawkins said.

During a May 3 panel, an audience member asked whether the IRS maintains profiles of accounting or law firms based on their behavior or their clients' legal issues.

Charles P. Rettig of Hochman, Salkin, Rettig, Toscher & Perez PC said he's not sure there's an official profile of individual firms, but that the reputation of a firm or practitioner can travel within the Service. "IRS agents go to lunch with other IRS agents," he said. "The approach should be to protect your reputation."

Scott D. Michel of Caplin & Drysdale said that "one of the first things the agents do is Google the taxpayer, and probably the second thing they do is Google the practitioner."

The search results might raise other issues. For example, if a revenue agent does an online search for a taxpayer's attorney and finds that the attorney does significant work in white-collar crimes or criminal tax controversy, it may suggest to the agent that the case involves criminal violations, Michel said.

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