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**From:**

**Sent:** Tuesday, January 19, 2010 3:35:21 PM

**To:**


**Cc:**

**Subject:** disclosure issues with using TAOs as examples

Hi . Thanks for giving us an opportunity to weigh in here. The use of examples has been the source of many questions in TAS, and we will give you the same advice that we have consistently given to others in TAS over the last several years.

Unless you have obtained taxpayer consent, we advise against the use of any one taxpayer's case as an example, whether it be an example for training purposes, or even an example in the Annual Report to Congress. Please take a close look at IRC § 6103(b)(2), and you'll see that the definition of "return information" is very broad and covers many different types of data furnished to or collected by the IRS. Besides a taxpayer's name, address, or social security number, "return information" also includes things like the source of a taxpayer's income, which deductions or credits the taxpayer claimed on his/her return, and whether the taxpayer's return is under examination. So while you may have removed some of the "return information" from each case, the facts of the case that remain likely still constitute "return information."

If three or more TAOs present a common set of facts, you can use those common facts. So if you had 3 TAOs involving a particular topic where the facts were common, you could provide a sample TAO that uses those common facts. This is often referred to as "the rule of 3" as set forth on page 39 of Publication 1075. By using common facts from three or more cases, the idea is that you are giving statistical data in a form that cannot be associated with, or otherwise identify, directly or indirectly, a particular taxpayer. If there are not three or more TAOs with a common set of facts, you can create a hypothetical set of facts to illustrate the same problem.



Please let me know if you have any questions.  
Thanks.