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From:

Sent: Friday, August 5, 2011 1:50 PM

To:

Cc:

Subject:

We have reviewed your letter to the Chapter 13 Standing Trustee and the Standing Trustee's response to that letter and advise as follows:

- Your analysis is correct. There is no authority to disclose the debtor's return information to the Standing Chapter 13 Trustee absent the debtor's consent. Counsel's position is that the Standing Chapter 13 Trustee does not have a material interest in the debtor's return or return information under sections 6103(e)(4) or (5).
- The statement in the Bankruptcy Plan to which the Trustee looks as disclosure authority does not suffice to disclose the debtor's returns to the Standing Chapter 13 Trustee. That statement is:
 - The debtor's consent must conform with section 6103(c) and the regulations issued thereunder in Treas. Reg. 301.6103(c)-1.
 - The Form 8821 conforms with the requirements of section 6103(c) and Treas. Reg. 301.6103(c)-1.
 - The instructions to Form 8821 specifically state that consents for future tax periods may only be for periods that end no later than 3 years after the date the tax information authorization is received by the IRS. By its own terms, the consent is not open ended.

- If the bankruptcy period ends before the end of the 3-year period, there is no problem with the Form 8821 being outstanding since the Form 8821 is not self-effectuating. Disclosure of the debtor's returns made in accordance with the Form 8821 requires some action on the part of the person to whom the consent is provided.
- If the bankruptcy period extends beyond the 3-year period provided by the Form 8821, then a new Form 8821 would be required.
- It is possible for a consent to be prepared specifically for this disclosure. However, that consent must conform with section 6103(c) and the regulations issued thereunder in Treas. Reg. 301-6103(c)-1.
- It may be possible for the Bankruptcy Plan to provide a section 6103(c) consent as a separate page at the Plan pertaining solely to the disclosure of the debtor's returns. That separate consent would need to be signed by the debtor.

Note that there is a typo in your July 21, 2011 letter, you refer to an unauthorized disclosure under section 7331, rather than section 7431.

If you have any questions, please do not hesitate to call.