

IRS Compliance Campaigns

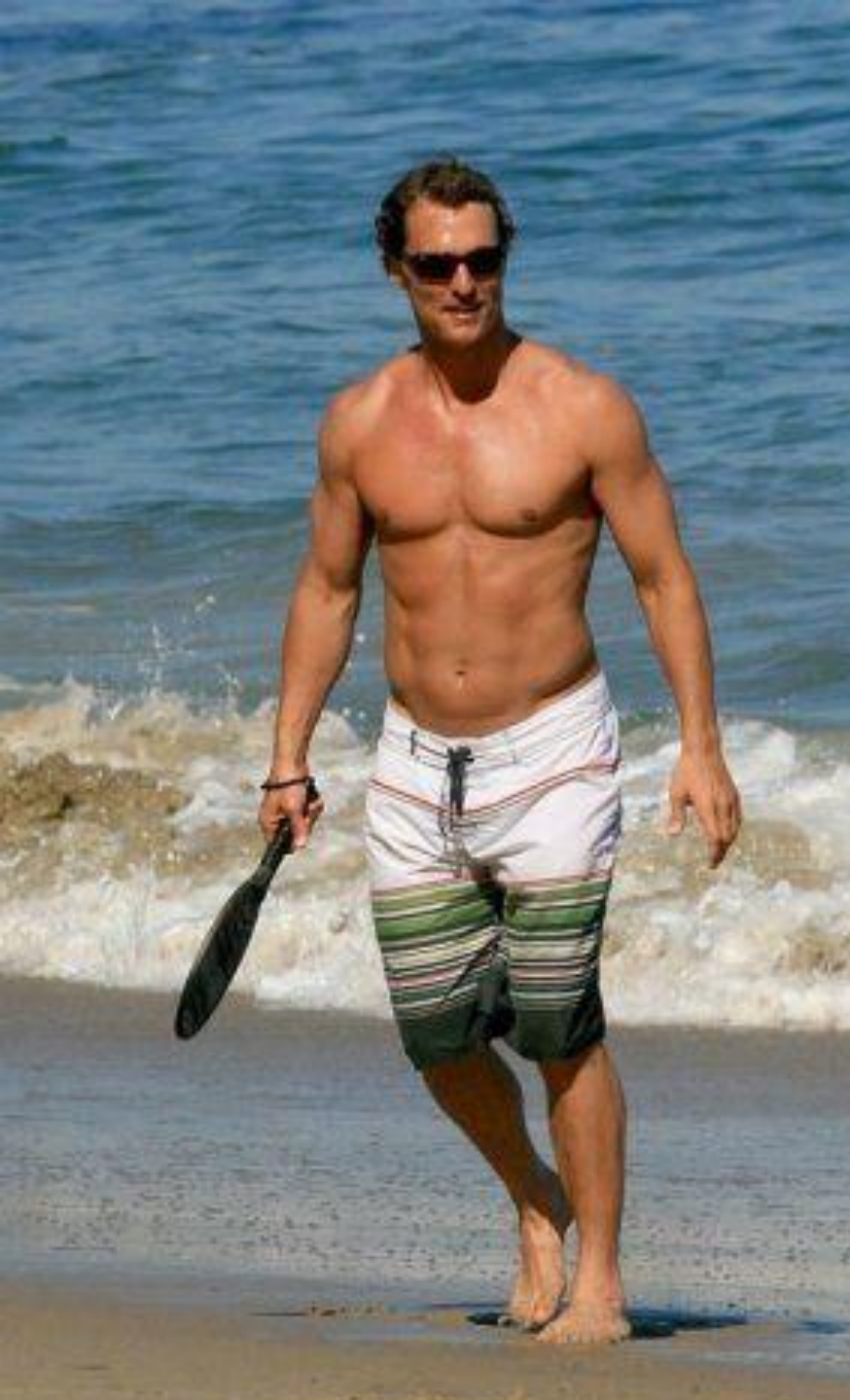
Large Business and International
Launches Compliance Campaigns

Presented by
Stuart Rohatiner, CPA









13 Campaigns

1. **Form 1120-F Non-Filer Campaign**
2. **OVDP Declines-Withdrawals Campaign**
3. **Repatriation Campaign**
4. **Inbound Distributor Campaign**
5. **Related Party Transactions Campaign**
6. **S Corporation Losses Claimed in Excess of Basis Campaign**
7. **Land Developers-Completer Contract Method (CCM) Campaign**
8. **Basket Transactions Campaign**
9. **Micro-Captive Insurance Campaign**
10. **Domestic Production Activities Deduction, Multi-Channel Video Program Distributors (MVDP's) and TV Broadcasters Campaign**
11. **IRC Section 48C Energy Credit Campaign**
12. **Deferred Variable Annuity Reserves & Life Insurance Reserves IIR Campaign**
13. **TEFRA Linkage Plan Strategy Campaign**

WHAT ARE THESE CAMPAIGNS?

A new approach to enforcement by the IRS to identify issues representing a risk of non-compliance and make the greatest use of limited resources.

How the IRS chose the campaigns

GERSON PRESTON
KLEIN LIPS EISENBERG GELBER

Perceived high-risk compliance areas where tax deficiencies may be found and the highest dollar return may be obtained.

LB&I original 13 Campaigns were selected through:

- Extensive data analysis.
- Recommendations from IRS compliance employees.
- Feedback from the tax community.

FOCUS

Midmarket population

Taxpayers in the \$10 million to \$250 million in assets

Campaigns treatment streams

- “Soft letters” (warnings) with opportunity to amend returns.
- Changes in forms.
- Examinations.
- Published guidance.
- Audits will retain many of their traditional features.
- Exam processes and procedures will largely stay the same.



1. Many foreign companies doing business in the U.S. are not meeting their filing obligations.

Practice Area: Cross Border Activities

Lead Executive:
John Hinding

- Foreign companies doing business in the U.S. are often required to file Form 1120-F. LB&I has data suggesting that many of these companies are not meeting their filing obligations. In this campaign.
- LB&I will use various external data sources to identify these foreign companies and encourage them to file their required returns.

GOAL

- Increase voluntary compliance by foreign corporations with a U.S. business nexus.

TREATMENT

- Soft letter outreach.
- Examinations



2. Push for the reporting of past offshore income.

Practice Area: Withholding & International Individual Compliance

Lead Executive:
Pamela Drenthe

- Allows U.S. taxpayers to voluntarily resolve past non-compliance related to unreported offshore income and failure to file foreign information returns.
- Addresses OVDP applicants who applied for pre-clearance into the program but were either denied access to OVDP or withdrew from the program of their own accord.

TREATMENT

- Taxpayers, who have yet to resolve their non-compliance and who meet the eligibility criteria, are encouraged to consider entering one of the offshore programs currently available.



3. Many taxpayers do not properly report repatriations as taxable events on their filed returns.

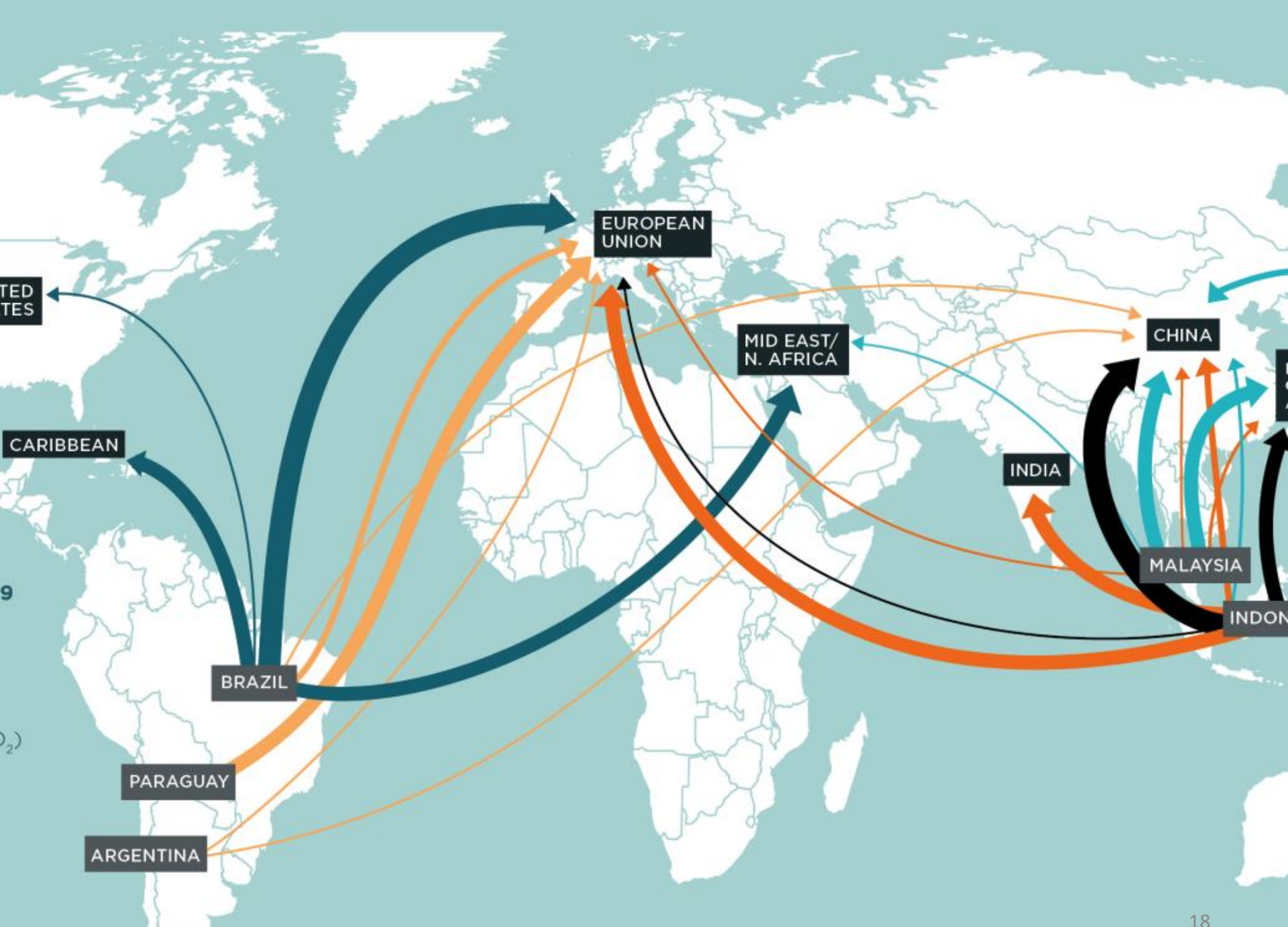
Practice Area: Cross Border Activities

Lead Executive:
John Hinding

- Repatriation structures being used for purposes of tax free repatriation of funds into the U.S.
- Many of the taxpayers do not properly report repatriations as taxable events on their filed returns.

GOAL

- Simultaneously improve issue selection filters while conducting examinations on identified, high risk repatriation issues and thereby increase taxpayer compliance.



4. U.S. distributors of goods sourced from foreign-related parties incurring losses or small profits, which are not commensurate with the functions performed and risks assumed.

Practice Area: Transfer Pricing Operations

Lead Executive:
Sharon Porter

Focus on distributors that have “incurred losses or small profits on U.S. returns, which are not commensurate with the functions performed and risks assumed.”

- Campaign grew out of a pilot program called Inbound Distributor Project, where the IRS determined that there was a widespread practice of not adequately compensating inbound distributors in the **middle market**.
- The IRS is concerned that companies will manipulate intercompany prices to shift profits to lower tax jurisdictions.

TREATMENT

- Comprehensive training strategy that will aid revenue agents as they examine this IRC Section 482 issue.
- Issue-based examinations.



5. Focus on compliance in related party transactions of taxpayers in the mid-market segment

Practice Area: Enterprise Activities

Lead Executive:
Peter Puzakulics

- This campaign focuses on transactions between commonly controlled entities that provide taxpayers a means to transfer funds from the corporation to related pass through entities or shareholders.

TREATMENT

- LB&I is allocating resources to this issue to determine the level of compliance in related party transactions of taxpayers in the mid-market segment.
- Issue-based examinations.



6. Shareholders claim losses and deductions to which they are not entitled because they do not have sufficient stock or debt basis to absorb these items.

Practice Area: Pass-Through Entities

Lead Executive:
Holly Paz

- S corporation shareholders report income, losses and other items passed through from their corporation.
- The law limits losses and deductions to their basis in the corporation.
- LB&I has found that shareholders claim losses and deductions to which they are not entitled because they do not have sufficient stock or debt basis to absorb these items.

TREATMENT

- Developed technical content for this campaign that will aid revenue agents as they examine the issue.
- Issue-based examinations
- Soft letters encouraging voluntary self-correction
- Conducting stakeholder outreach
- Creating a new form for shareholders to assist in properly computing their basis



7. Improper use of the Completed Contract Method (CCM) of accounting.

Practice Area: Enterprise Activities

Lead Executive:
Peter Puzakulics

- Large land developers that construct in residential communities may be improperly using the Completed Contract Method (CCM) of accounting.
- A developer, whose average annual gross receipts exceed \$10 million, may only use the CCM under a home construction contract.
- Developers are improperly deferring all gain until the entire development is completed.

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TREATMENT

- LB&I will provide training for revenue agents
- Development of a practice unit
- Issuance of soft letters
- Follow-up with issue based examinations when warranted



8. Structured financial transactions, in which a taxpayer defers and treats ordinary income and short-term capital gain as long-term capital gain.

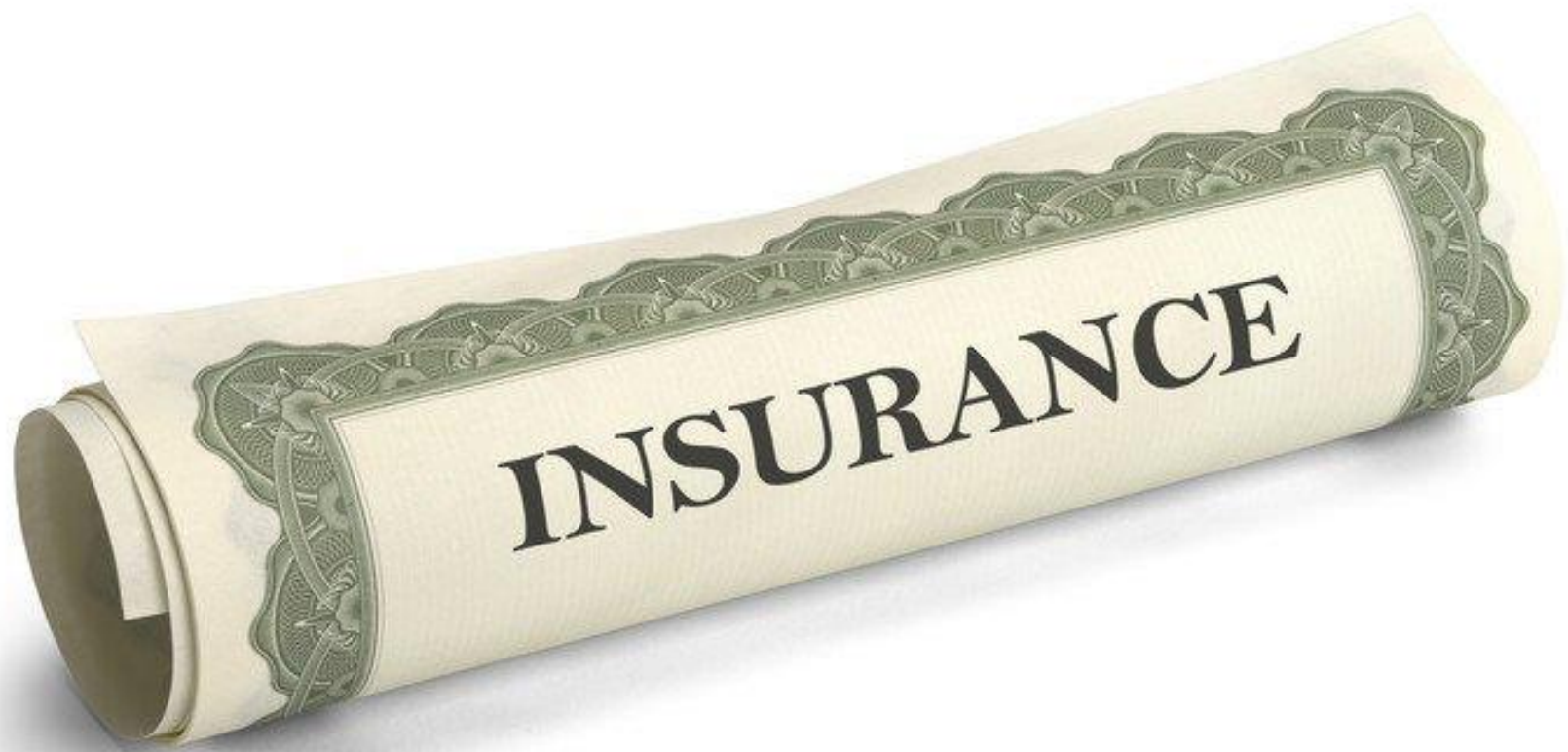
Practice Area: Enterprise Activities

Lead Executive:
Gloria Sullivan

- A taxpayer attempts to defer and treat ordinary income and short-term capital gain as long-term capital gain.
- The taxpayer treats the option or other derivative as open until a barrier event occurs, and, therefore, does not recognize or report current period gains.
- The gains are deferred until the contract terminates, at which time the overall net gain is reported as a Long Term Capital Gain.

TREATMENT

- Training strategy
- Issue-based examinations
- Soft letters to Material Advisors
- Practitioner outreach.



9. Detecting taxpayer attempts to reduce aggregate taxable income using contracts treated as insurance contracts and a captive insurance company.

Practice Area: Enterprise Activities

Lead Executive:
Gloria Sullivan

- Transactions in which taxpayers attempt to reduce aggregate taxable income using contracts treated as insurance contracts and a related company that the parties treat as a captive insurance company.
- Each entity that the parties treat as an insured entity under the contracts claims deductions for insurance premiums.
- The manner in which the contracts are interpreted, administered, and applied is inconsistent with arm's length transactions and sound business practices.

TREATMENT

- LB&I has developed a training strategy.
- Issue-based examinations.



10. Determining if media productions qualify for a tax break for businesses that perform domestic manufacturing and certain other production activities.

Practice Area: Enterprise Activities

Lead Executive:
Kathy Robbins

- Multi-channel Video Programing Distributors (MVPDs) and TV Broadcasters often claim that “groups” of channels or programs are a qualified film eligible for the IRC Section 199 deduction.
- Taxpayers are asserting that they are the producers of a qualified film when distributing channels and subscriptions packages that often include third-party produced content.

TREATMENT

- LB&I will identify taxpayers and develop training to aid revenue agents in examining them.
- Development of an externally published practice unit.
- Potential published guidance
- Issue based exams, when warranted.

13 Campaigns - Webinars

- Feb. 27, 2017 – (all campaigns) - KPMG
- March 28, 2017 – (all campaigns) - EY
- April 18, 2017 – (Deferred Variable Annuity, Micro Captive Insurance, Baskets Transactions) – Deloitte
- April 26, 2017 – (S Corporation Losses, TEFRA Linkage Plan Strategy) – PwC
- May 10, 2017 – (Inbound Distributor, OVDP Declines-Withdrawals) - AICPA
- May 23, 2017 – (Repatriation, Form 1120F) – Morgan Lewis & Bockius
- June 6, 2017 – (Domestic Production Activities Deduction, MVPDs and TV Broadcasters Related Party Transactions) – Grant Thornton
- Week of June 19, 2017 – (48C Energy Credit Land Developers – Completed Contract Method) - ABA

What taxpayers should do

- Double check your taxes, take a look at what are your tax's teams international chops / experience?
- If they are not familiar with IPUs (International Practice Units), you'd better do something!
- Make sure your tax team understands the seriousness of the situation if you get audited. The IRS gives the playbook, so they should be ready.
- If you have issues mentioned on the campaign, get your audit team to work ASAP. Use LB&I Practice Units, which establish transaction-specific audit road maps for LB&I examiners.
- Make sure you have a transfer pricing study in place, well documented and with proper economic support.
- Upfront preparedness may also inhibit LB&I from pursuing a full campaign audit.





THANK YOU

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