Current Federal Tax Developments

Nichols Patrick CPE, Incorporated

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SECTION: SCAMS
IRS RESTARTS GET TRANSCRIPT ONLINE PROGRAM WITH MORE RIGOROUS SCREENING OF USERS

Citation: News Release IR-2016-85, 6/7/16

The IRS has relaunched the "Get Transcript" online service with what the agency claims is a more rigorous process than the one that previously existed (News Release IR-2016-85). In May of 2015 the IRS announced that it had discovered there had been unauthorized access to taxpayer's transcript via the "Get Transcript" online service. While the IRS initially estimated the unauthorized access to involve 100,000 taxpayers, by February of 2016 that estimate has ballooned to over 720,000 taxpayers.

While the unauthorized parties were able to access about ½ of the accounts they tried to break into, even under the old system many legitimate taxpayers were unable to complete the process. As would be expected, with the IRS tightening controls on who can get it, even more taxpayers will likely find themselves unable to answer the questions—and some will simply be barred from accessing the transcript online due to the new requirements.

The News Release Notes:

> While some taxpayers may now find it more difficult to authenticate their identities with this strengthened process, the IRS is committed to making sure everyone accessing the site will be able to do so in a safe and secure way. The IRS continues to support multiple options for those taxpayers who may be unable to access online features or who prefer to obtain information in more traditional ways. These options currently include ordering transcripts online or by phone for receipt by mail, which typically are delivered to the address of record within five to 10 days. The IRS continues to look for ways to expand options for all taxpayers.

"More difficult" is, in reality, an understatement of the problem. As the IRS describes the process:

> To access the new Get Transcript Online feature, taxpayers must have an email address, a text-enabled mobile phone and specific financial account information, such as a credit card number or certain loan numbers. Taxpayers who registered using the older process will need to re-register and strengthen their authentication in order to access the tool. As part of the new multi-factor process, the IRS will send verification, activation or security codes via email and text. The IRS warns taxpayers that it will not initiate contact via text or email asking for log-in information or personal data. The IRS texts and emails will only contain one-time codes.

The fact sheet issued with the News Release indicated that the "text enabled" smartphone must be one registered on a post-paid plan, so that taxpayers that have a phone under a pre-paid plan would not eligible. The reason for that restriction is because carriers do verifications and credit checks on individuals obtaining post-paid plans, but do not do that level of investigation on prepaid plans. Thus it would be possible to obtain a prepaid (also referred to in slang as "burner") phone plan in a mark's name to receive the text message if the IRS allowed the prepaid plans phones to work.

Unfortunately, the changing nature of the mobile phone market has made it more likely that even those with stellar credit may turn to prepaid plans. As carriers generally no longer subsidize the purchase of a phone, but rather demand that customers pay the full price for the phone, there's no longer the same incentive to sign up for a post-paid contract to obtain a high end phone at a low (apparent) cost.

And, as the IRS notes, the questions need to be made more difficult in order to (hopefully) remove the ability of the criminals to be able to uncover the answers through either legitimate or less savory sources.

Whether this will be sufficient to "lock down" the Get Transcript program remains to be seen. As the IRS admits in this news release:

> "The incident with Get Transcript Online illustrates a wider truth about identity theft in general, which is that there are no perfect systems," Koskinen said. "No one, either in the public or private sector, can give an absolute guarantee that a system will never be compromised. For that reason, we continue our comprehensive efforts to update the security of our systems, protect taxpayers and their data and investigate crimes related to stolen identity refund fraud."

The Fact Sheet (FS-2016-20) issued with the News Release contains the following details on accessing and using the system:

> **Here's what new users need to get started:**
>
> - A readily available email address;
> - Your Social Security number or Individual Tax Identification Number;
> - Your filing status and address from your last-filed tax return;
> - Access to certain account numbers for either:
>   - credit card, or
>   - home mortgage loan, or
>   - home equity (second mortgage) loan, or
>   - home equity line of credit (HELOC), or
>   - car loan
> - A readily available mobile phone. Only U.S-based mobile phones may be used. Your name must be associated with the mobile phone account. Landlines, Skype, Google Voice or similar virtual phones as well as phones associated with pay-as-you-go plans cannot be used;
>
> If you have a "credit freeze" on your credit records through Equifax, it must be temporarily lifted before you can successfully complete this process.
>
> Because this process involves verification using financial records, there may be a "soft notice" placed on your credit report. This notice does not affect your credit score.
>
> **To securely access Get Transcript Online, first-time users must:**
>
> - Submit their name and email address to receive a confirmation code;
> - Enter the emailed confirmation code;
> - Provide their SSN, date of birth, filing status and address on the last filed tax return;
> - Provide some financial account information for verification such as the last eight digits of their credit card number, car loan number, home mortgage account number, or home equity (second mortgage) loan number;

- Enter a mobile phone number to receive a six-digit activation code via text message;
- Enter the activation code;
- Create username and password, create a site phrase and select a site image.

Returning taxpayers who have not completed the new secure access process:

- Log in with an existing username and password;
- Submit financial account information for verification, for example, the last eight digits of a credit card number or car loan number or home mortgage account number or home equity (second mortgage) loan account number;
- Submit a mobile phone number to receive an activation code via text;
- Enter the activation code.

Returning taxpayers who have completed the new secure access process:

- Log in with an existing username and password;
- Receive a security code text via mobile phone provided with account set up;
- Enter the security code into secure access.

SECTION: 108
DEBT ON REAL PROPERTY BEING HELD FOR SALE DOES NOT MEET THE DEFINITION OF QUALIFIED REAL PROPERTY INDEBTEDNESS

Citation: Revenue Ruling 2016-15, 6/10/16

Revenue Ruling 2016-15 deals with the question of the applicability of the exclusion of cancellation of indebtedness income under §108(a)(1)(D) as it applies to a pair of real estate development related businesses. The ruling obsoletes Revenue Ruling 76-86 as the IRS notes that both IRC §§108 and 1017 are significantly different now than they were back in 1976 when that ruling was issued.

As the IRS explains below, IRC §108(a)(1)(D) is meant to provide relief for debt relief related to certain real property "used in a trade or business" as that is defined by IRC §108(c)(3)(A):

> Section 108(a)(1)(D) provides that a taxpayer that is not a C corporation may exclude COD income from gross income if the cancelled debt is "qualified real property business indebtedness" (QRPBI). Section 108(c)(3) defines QRPBI as indebtedness which (A) is incurred or assumed by the taxpayer in connection with real property used in a trade or business and is secured by such real property, (B) was incurred or assumed before January 1, 1993, or, if incurred or assumed on or after that date, is qualified acquisition indebtedness, and (C) with respect to which the taxpayer makes an election to exclude from gross income. Section 108(c)(4) generally defines "qualified acquisition indebtedness" as indebtedness incurred or

assumed to acquire, construct, reconstruct, or substantially improve the real property.

The taxpayer must elect this treatment and if the taxpayer does the taxpayer reduces the basis of real property under IRC §1017. The idea is that the taxpayer doesn't recognition income at the time the debt is discharged, but rather gets a reduced deduction later as the property is depreciated or at the time the property is sold.

In this case the IRS looked at two different businesses:

- In the first case a taxpayer develops real estate with the intention of holding the property and renting it to tenants
- In the second case the taxpayer develops the property, but this time with the intention to sell the property to customers.

The IRS finds that if there is a cancellation of debt related the property in the first case, the taxpayer will qualify for the right to make the election to treat the debt as "qualified real property indebtedness" and reduce the basis of depreciable real property rather than recognize current income.

However the IRS concludes the second taxpayer does not qualify the treat such debt as qualified real property indebtedness. The IRS notes that the House Committee Report when the provision was enacted provided the following:

> The [House Budget] [C]ommittee understands that real property has declined in value in some areas of the nation, in some cases to such a degree that the property can no longer support the debt with which it is encumbered. The committee believes that where an individual has discharge of indebtedness that results from a decline in value of business real property securing that indebtedness, it is appropriate to provide for deferral, rather than current inclusion, of the resulting income. Generally, that deferral should not extend beyond the period that the taxpayer owns the property.

The IRS notes that if that taxpayer was allowed to apply these rules, the taxpayer would reduce the basis of depreciable real estate it held, but not the inventory property that actually was secured by the debt. As the ruling continues:

> Sections 108(c)(1) and 1017(b)(3) provide that a taxpayer that excludes COD income under § 108(a)(1)(D) must make an offsetting basis reduction in depreciable real property. Under § 167 and the associated regulations, residential rental property is depreciable real property, but inventories or stock in trade is not depreciable property. Although § 1017(b)(3)(E) generally permits a taxpayer to elect to treat § 1221(a)(1) real property as depreciable property, § 1017(b)(3)(F)(ii) specifically precludes a taxpayer from making this election in the case of QRPBI. Regulations under § 1017 provide ordering rules that further Congressional intent that the deferral period generally should correspond to the period that the taxpayer holds the property securing the cancelled debt. Specifically, § 1.1017-1(c)(1) provides that a taxpayer must reduce basis first in the property securing the cancelled debt, and then in similar depreciable real property. If debt associated with

> § 1221(a)(1) property were treated as QRPBI, a taxpayer would be unable to reduce the basis of the property securing the debt, much less reduce the basis of that property prior to reducing the bases of depreciable real property used in the taxpayer's trade or business. This result would be inconsistent with Congressional intent and § 1.1017-1(c)(1). Moreover, the inability to reduce the basis of the § 1221(a)(1) property securing the debt would create deferrals of COD income that extend well beyond the period the taxpayer holds the § 1221(a)(1) property because the taxpayer would need to reduce the basis of depreciable real property unrelated to the indebtedness, and typically a taxpayer holds depreciable business property substantially longer than it holds § 1221(a)(1) property. Accordingly, debt incurred in connection with, and secured by, § 1221(a)(1) real property cannot be treated as QRPBI.

The IRS did have one loose end that it found it needed to "tie up" with regard to this ruling. Revenue Ruling 76-86, never technically withdrawn by the IRS, provided that a taxpayer could exclude income from cancellation of debt related to purchasing merchandise pursuant to IRC §§108 and 1017. That would just happen to be the exact situation being faced by the second developer in the ruling.

But the IRS notes that both Code sections have been significantly changed since 1976, and the older ruling no longer reflects current law.

So the IRS concludes that if each developer had a $2,750,000 reduction in indebtedness, the follow results would apply:

> Situation 1. C holds the apartment building for use in C's business and is allowed to depreciate the apartment building in accordance with the Code and regulations. Accordingly, the debt C incurred to construct the apartment building is QRPBI. C may elect to defer the $2,750,000 of COD income under § 108(a)(1)(D) in the taxable year of discharge by excluding this amount from gross income and reducing C's basis in the apartment building by the same amount.
>
> Situation 2. Because C holds the residential community lots primarily for sale to customers in C's business, C is not allowed to depreciate the lots in accordance with the Code and regulations. Accordingly, the debt C incurred to construct the residential community may not be treated as QRPBI. C may not elect to exclude the $2,750,000 of COD income under § 108(a)(1)(D).

The ruling concludes with the following two formal holdings:

- Real property developed and held by a taxpayer for lease in its leasing business is "real property used in a trade or business" for purposes of § 108(c)(3)(A).
- Real property developed and held by a taxpayer primarily for sale to customers in the ordinary course of business is not "real property used in a trade or business" for purposes of § 108(c)(3)(A).

SECTION: 108
REGULATIONS HOLD BANKRUPTCY OR INSOLVENCY OF DISREGARDED ENTITIES AND GRANTOR TRUSTS NOT RELEVANT IN DETERMINATION OF TAXATION OF CANCELLATION OF DEBTS OF SUCH ENTITIES

Citation: TD 9771, 6/10/16

The IRS finalized regulations (TD 9771) that were issued in proposed form back in 2011(Proposed Reg. §1.108-9, REG-154159-09, 4/13/11) regarding cancellation of debt relief provisions for bankruptcy and insolvency found in IRC §108 as they relate to grantor trusts and disregarded entities (generally single member LLCs).

The IRS had indicated when the proposed regulations were issued that some taxpayers had attempted to interpret the provisions granting relief to taxpayers who had a discharge of indebtedness involving insolvency or bankruptcy as applying at the disregarded entity level rather than at the level of the taxpayer treated as the owner of the disregarded entity.

> **Example.** ABC, LLC is a single member LLC owned by Harry. ABC owns a piece of land which is subject to a mortgage debt of $1,000,000. The debt is not a nonrecourse debt and ABC is primary obligor although Harry has guaranteed the debt. The property has declined in value since ABC acquired it and ABC ceases payments on the debt. The lender forecloses on the property at a time when the property is worth $500,000. After the foreclosure $500,000 of the debt remains unpaid and the lender does not seek payment from either ABC, nor seek to obtain the funds under the guarantee from Harry although Harry's net worth (without regard to the guarantee) was $1,000,000 at that date. The bank did so because virtually all of that net worth arises from value in Harry's retirement plan that is insulated from the claims of creditors.
>
> Harry takes the position on his tax return that although there is $500,000 of cancellation of debt income, since ABC was insolvent at the date the debt was discharged IRC §108(a)(1)(B) excludes that $500,000 from inclusion as cancellation of debt income. As well, since Harry was merely a guarantor of the debt that sort of indirect reduction in liability does not lead to COD income on Harry's return.

The IRS indicated in the preamble to the proposed regulations that the agency did not believe this was a proper interpretation of the IRC, but they planned to issue explicit regulations that would provide specifically that the insolvency test is applied at the deemed owner level (that is, Harry's net worth of $1,000,000 would eliminate the use of the insolvency exception). Similarly, the bankruptcy exception would only apply if the owner was discharged from liability for the debt in bankruptcy—a discharge of the LLC in bankruptcy would not serve to trigger the rules.

Reg. §1.108-9(a) provides that neither a grantor trust nor a disregarded entity shall be treated as the "taxpayer" (that is, the party who may exclude the cancellation of income) for purposes of the insolvency or bankruptcy exclusions under IRC §108(a)(1)(A) and (B), nor the related provisions found at IRC §§108(d)(1), (2), (3) and (6).

The IRS also reiterates their position, found in Action on Decision 2015-01, that the taxpayer must actually file a bankruptcy petition for the bankruptcy discharge exclusion to count—that is, a discharge of the debt in a petition filed by the disregarded entity will not trigger this rule even if the court issues a specific discharge of the taxpayer's own liability as part of the case. Note that this position is contrary to the Tax Court's holding in the related cases of (*Estate of Martinez v. Commissioner*, T.C. Memo. 2004-150, *Gracia v. Commissioner*, T.C. Memo. 2004-147, *Mirarchi v. Commissioner*, T.C. Memo. 2004-148; and *Price v. Commissioner*, T.C. Memo. 2004-149)

Specifically, Regulation §1.108-9(a)(2) provides (note the last sentence):

> If indebtedness of a grantor trust or a disregarded entity is discharged in a title 11 case, section 108(a)(1)(A) applies to that discharged indebtedness only if the owner of the grantor trust or the owner of the disregarded entity is under the jurisdiction of the court in a title 11 case as the title 11 debtor. If the grantor trust or the disregarded entity is under the jurisdiction of the court in a title 11 case as the title 11 debtor, but the owner of the grantor trust or the owner of the disregarded entity is not, section 108(a)(1)(A) does not apply to the discharge of indebtedness income.

The regulation goes on to provide the following provision that impacts the insolvency test [Regulation §1.108-9(a)(3)]:

> The insolvency exclusion. Section 108(a)(1)(B) applies to the discharged indebtedness of a grantor trust or a disregarded entity only to the extent the owner of the grantor trust or the owner of the disregarded entity is insolvent. If the grantor trust or the disregarded entity is insolvent, but the owner of the grantor trust or the owner of the disregarded entity is solvent, section 108(a)(1)(B) does not apply to the discharge of indebtedness income.

The regulation also contains a definition of "disregarded entities" that are covered by the regulation, found at Reg. §1.108-9(c)(1):

> For purposes of this section, a disregarded entity is an entity that is disregarded as an entity separate from its owner for Federal income tax purposes. See §301.7701-2(c)(2)(i) of this chapter, the Procedure and Administration Regulations. Examples of disregarded entities include a domestic single-member limited liability company that does not elect to be classified as a corporation for Federal income tax purposes pursuant to §301.7701-3 of this chapter, a corporation that is a qualified REIT subsidiary (within the meaning of section 856(i)(2)), and a corporation that is a qualified subchapter S subsidiary (within the meaning of section 1361(b)(3)(B)).

The regulation has an effective date as of the date of its publication in the Federal Register (June 10, 2016). However, since the IRS believes that this has always been the law, the agency notes:

> The proposed regulations and these regulations are consistent with the existing statute. Accordingly, the IRS will not challenge return positions consistent with the proposed regulations, as clarified in these final regulations, for the period prior to the effective/applicability date of these final regulations.

SECTION: 6662
TAXPAYER'S UNSUCCESSFUL ATTEMPT TO FIND A PREPARER TO CONFIRM THEIR OWN PREPARER'S ADVICE NOT REASONABLE CAUSE FOR OMITTING INCOME

Citation: Mallory v. Commissioner, TC Memo 2016-110, 6/6/16

The tax laws are complicated and, at times, the results are not what a taxpayer might like. The combination of these two facts cause some taxpayers to start "opinion shopping" when they receive an answer they don't like. In the case of *Mallory v. Commissioner*, TC Memo 2016-110, the taxpayers ended up casting about for someone who would tell them what they wanted to hear.

The Mallories had purchased a single premium variable life insurance policy on Mr. Mallory for $87,500 in 1987. The policy provided that Mr. Mallory could borrow from the carrier and the loan would be secured by the policy, with any unpaid interest on the loan being added to the loan amount. Beginning in 1991 Mr. Mallory took advantage of this "tax free" source of funds, eventually taking out cash of over $133,000 by the end of 2001.

While Mr. Mallory ceased taking money from the policy in 2001, he did not make any interest payments. On October 17, 2011 the carrier wrote Mr. Mallory indicating that the cash value of the policy was now less than the outstanding balance of the loan and that unless he paid $26,061.67 by December 17, 2011 the policy would be

terminated. The letter also warned Mr. Mallory that such a termination would create taxable income in the amount of $155,119.16 for Mr. Mallory.

Mr. Mallory did not pay the amount necessary to keep the policy in force and thus a 1099R showing a revised taxable amount of $150,397.25 was issued for 2011.

The taxpayer consulted with their tax preparer on this matter—and he didn't have much good news:

> Before filing their 2011 income-tax return, Larita Mallory spoke with Steve Miller of Liberty Tax Services about the income that Monarch Life had reported on the Form 1099-R. Miller told Larita Mallory that she "was going to owe a bunch of money". Miller prepared the Mallorys' 2011 Form 1040, "U.S. Individual Income Tax Return". The Mallorys did not file their 2011 Form 1040 until around March 8, 2013.

However, when they finally filed the return it did not contain this income. Rather the Mallorys attached a handwritten note to the return:

> Paid hundreds of $. No one knows how to compute this using the 1099R from Monarch — IRS could not help when called — Pls send me a corrected 1040 explanation + how much is owed. Thank you.

At trial the taxpayers clarified what that note meant:

> Larita Mallory's testimony clarifies the meaning of the note attached to the return. She testified that before the Mallorys filed their return, she telephoned several [*7] persons other than Miller to ascertain whether the Form 1099-R was correct. The persons she telephoned consisted of two groups: (1) people who advertised themselves in the telephone directory as tax professionals (and whom she did not pay, unlike Miller) and (2) various IRS personnel. None of the persons she contacted was willing to confirm whether the Form 1099-R was correct.

Not surprisingly the Tax Court found that the amount was taxable to the taxpayer—and that included the portion of the gain that represented the accrued interest since, as the Court pointed out, personal interest (which is the default treatment for interest unless the taxpayer can trace the proceeds elsewhere) is generally not deductible under IRC §163(a)--and the taxpayer's testimony clearly indicated the money was taken to cover short-term needs and no evidence was presented that these were other than living expenses. Even though not deductible, the liability for the interest was real and the policy value was used to pay off that liability, thus triggering taxable gain.

The real question, though, was whether the taxpayers had reasonable cause for their failure to properly report the income. In the case of substantial understatement of tax (that is, an understatement of the greater of $5,000 or 10% of the tax properly due with the return), the penalty is automatically presumed to apply. [IRC §6662]

A taxpayer can only escape that penalty if the position of the taxpayer had substantial authority (not an argument the taxpayer made in this case—and not one they would have succeeded with anyway), was disclosed and had a reasonable basis (the Court noted the rather odd disclosure but found the position had no reasonable basis under the law) or if the taxpayer had reasonable cause for the understatement and acted in in good faith.

For the last exception the taxpayers pointed out that they had asked numerous preparers and called the IRS and, in each case, the person on the other end of the line was unable to tell them the taxable portion of what they had received.

But it wasn't correct no one had given the taxpayers an answer (which was also the correct answer) to the question. Rather, as the Court pointed out:

> The Mallorys received the letter from Monarch Life informing them that the policy debt on Kenneth Mallory's variable life insurance policy had exceeded its cash value, that the termination of the policy would result in a taxable event, and that any taxable gain in the policy would be reported to Kenneth Mallory and the IRS on a Form 1099-R. The Mallorys received the Form 1099-R from Monarch Life

before the April 15, 2012 filing deadline. The only tax adviser that they paid, Miller, suggested there would be a tax liability. Although various IRS employees and unpaid tax professionals declined to confirm whether the Monarch Life Form 1099-R was correct, it was unreasonable for the Mallorys to conclude from this unwillingness that they had no income from Monarch Life.

Thus, the Court sustained the penalties in this case.

SECTION: 7705
PROCEDURES FOR APPLICATION FOR CPEO STATUS RELEASED BY IRS

Citation: Revenue Procedure 2016-33, 6/3/16

The IRS has released a Revenue Procedure (Revenue Procedure 2016-33) that outlines how organizations will apply for Certified Professional Employer Organization (CPEO) status. The CPEO status, added by the Tax Increase Prevention Act of 2014, is meant to address an issue that arises when PEOs collect payroll taxes from employers but fail to pay those taxes over to the government.

Normally in such a situation the organization that hired the PEO remains on the hook for the payroll taxes, even if they were the victim of a fraud perpetrated by the PEO to walk off with payroll taxes. See the case of *City Wide Transit, Inc. v. Commissioner*, CA2, 2013-1 U.S.T.C. ¶50,211, reversing TC Memo 2011-279, 3/1/13.

Congress created the CPEO program to allow PEOs to apply to the IRS for a special status (CPEO) which serves, if other criteria are met, to allow the entities employing such PEOs to transfer full responsibility for any nonpayment of such taxes. To obtain this status an organization must apply for the status with the IRS, pay a fee and meet other criteria.

The bill provided the IRS was to begin accepting applications on July 1, 2015 with the program to start in full on January 1, 2016, but the IRS was unable to meet that deadline and instead pushed the program back one year. The IRS earlier in 2016 published temporary and proposed regulations for the program (TD 9768, Regs. §§301.7705-1T and 301.7705-2, REG-127561-15, Proposed Regs. §§31.3511-1, 301.7705-1 and 301.7701-2, 5/6/16) with this Revenue Procedure providing specifics for applying for the program.

The IRS will begin accepting applications on July 1, 2016 with the program officially getting underway on January 1, 2017. The applications will be submitted electronically to the IRS, along with a $1,000 user fee.

As part of the application the organization must submit proof of a surety bond where a surety agrees to issue a bond upon acceptance (a surety letter) followed by a Form 14751 showing actual issuance of the bond after acceptance as a CPEO.

The applicant also will need to include an annual financial statement accompanied by a report from an independent CPA. The CPA in question must:

- Be currently independent of the CPEO applicant per AICPA Standards
- Not currently be under suspension or disbarment from practice before the IRS
- Must be duly qualified to practice in any state and
- File a written declaration with the IRS that the person qualifies as a CPA and submit an authorization, pursuant to §601.503(a), to represent the CPEO before the IRS

The financial statement must include a report from the CPA that provides an opinion that:

- The financial statements are presented fairly in accordance with generally accepted accounting principles

- The financial statements reflect positive working capital or meet the requirements for the limited cases when the working capital may be negative, as well as a detailed computation of working capital and

- Reflect that the CPEO computes its taxable income on the accrual basis of accounting.

The auditor's opinion must be an unmodified opinion—that is, any modification would disqualify the organization from obtaining CPEO status.

The organization will also need to submit quarterly assertions that it has withheld and made all applicable payroll tax deposits and will need to submit an examination level attestation from an independent CPA indicating that statement is fairly stated. As well, the procedures provides:

> The attestation must be accompanied by a written declaration, signed by the CPA, that the CPA is currently qualified as a CPA and is authorized to represent the CPEO applicant before the IRS.

The ruling goes to provide additional information on the process that will be undertaken, including background and tax compliance checks the IRS will make regarding the applicant and responsible individuals of the organization.

The IRS will issue notification of acceptance of a CPEO and will also make the list of such organizations public (though the latter will happen only after the IRS receives the Form 14751). Normally the effective date of a certification would be the first date of the first quarter beginning after the certification is issued, but the IRS will grant a January 1, 2017 effective date to all organizations that submit an accurate and complete application before September 1, 2016.

The procedure also describes options an applicant has in the situation where an application is denied, including situations in which no appeal will be possible.

The Revenue Procedure was given a July 1, 2016 effective date which, not coincidentally, is the day on which the IRS will begin to accept applications for CPEO status.