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## IRS WEALTH SQUAD TARGETS HIGH-WEALTH TAXPAYERS AND THEIR ENTITIES

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As IRS employees return to their offices and resume audits and collection enforcement efforts, the IRS's Global High Wealth Industry Group (commonly referred to as the "Wealth Squad") will embark on an aggressive enforcement campaign targeting high-wealth individuals and the pass-through entities and foundations they control. Targeted taxpayers should understand how the enforcement campaign can impact them and take steps to ensure they are properly prepared for an audit by the Wealth Squad.

### WHAT IS THE WEALTH SQUAD?

In the past, the IRS has faced scrutiny over disparities in the audit rates of low and high-income taxpayers. To address this concern, the IRS's Large Business and International Division created the Wealth Squad to assist with audits and collection of tax from high-wealth individuals, their related enterprises (including C corporations, S corporations, partnerships, trusts, and private foundations), and their non-U.S. assets. Related enterprises are those entities in which the individual has a significant ownership interest or over which it exercises significant influence. Wealth Squad examinations often focus on the individual or related entity's interest in foreign assets and investments, including offshore or foreign bank accounts, retirement accounts, and trusts.

### WHO IS THE WEALTH SQUAD TARGETING?

After the moratorium on audits and collection activities ends on July 15, the Wealth Squad plans to examine several hundred tax returns of high net worth individuals with pass-through entities (such as partnerships, LLCs taxed as a partnership, and S corporations) and to focus on audits of high-wealth taxpayers with private foundations.

The audits will begin between July 15 and September 30, 2020. While the IRS has not specifically defined "high-wealth individuals," the Wealth Squad has historically focused on individuals with millions of dollars in assets or income. The Wealth Squad works with various IRS divisions and uses data analytics to identify its audit targets. For example, the Wealth Squad uses information from the IRS's campaign for compliance with the 2017 Tax Cuts and Jobs Act.

The Wealth Squad identifies private foundation targets via coordinated efforts with the IRS's Tax Exempt and Governmental Entities Division. Recently, the IRS announced that it has already identified more than 1,000 private foundations with links to high-wealth individuals or their enterprises. Thus, the Wealth Squad will likely examine some of these high-wealth individuals and private foundations in the near future.

In addition to these audits, the IRS is expected to begin aggressively targeting high-income taxpayers who do not timely file tax returns or pay the required tax. These efforts are discussed in a recent Thompson & Knight Client Alert ([IRS Expected to Aggressively Target Non-Fileers](#)). The Treasury

Inspector General for Tax Administration (“TIGTA”)—which provides independent IRS oversight and audits the IRS’s efficiency and effectiveness—will monitor the IRS’s efforts to audit high-wealth taxpayers.

## WHAT CAN YOU DO?

Given the breadth and complexity of Wealth Squad examinations, high-wealth taxpayers and their entities and foundations should consider the possibility of an IRS audit long before they receive any examination notices from the IRS. Further, other investors in entities related to high-wealth individuals may be impacted by a Wealth Squad audit because the audit may include an examination of the other investors’ tax returns. Thus, high-wealth taxpayers, related pass-through entities and foundations, and other investors in the related entities should take the following steps now to prepare for a potential Wealth Squad audit:

- **Keep detailed and accurate records.** Targeted taxpayers and their related entities should ensure they have complete and accurate records of their dealings, including the following:
  - (1) Tax filings and other tax documentation (*e.g.*, tax returns, W-2s, 1099s, K-1s);
  - (2) Tax basis in investments;
  - (3) Financial statements and other financial data relating to sources of income, assets, and liabilities;
  - (4) Name, address, EIN, and other information for any entities controlled or managed by or otherwise related to the taxpayer;
  - (5) Gifts or assets transferred to relatives, private foundations, or charitable organizations;
  - (6) Estate-planning transactions;
  - (7) Foreign accounts or offshore or cross-border financial transactions; and
  - (8) Details of any tax planning (*e.g.*, marketing materials received, description of planning, tax opinions, fees, and confidentiality agreements).

**Note:** Some of these records may be covered by the attorney-client or other privilege, and the impact of waiving such privilege should be evaluated by you and your attorney prior to disclosing them to the IRS.

- **Promptly respond to IRS correspondence.** Promptly review and respond to any correspondence received from the IRS. IRS correspondence often places a relatively short timeframe within which you must respond. Failure to provide a timely response can result in additional penalties and interest on top of any tax deficiency.
- **Contact an attorney specializing in tax controversy.** If you are targeted by the Wealth Squad or have questions regarding a potential examination, we highly recommend that you consult with an attorney specializing in tax controversy (in addition to your CPA). Tax controversy attorneys focus their practice on advocating for taxpayers before the IRS and will be able to provide an objective assessment of your tax positions and advise as to how to resolve your dispute to

minimize the hazards of any potential litigation. In addition, communications with attorneys are protected by a broad attorney-client privilege and attorney work product doctrine. While CPAs enjoy some similar privileges, the privilege can at times be extended more broadly using a *Kovel* agreement, whereby the attorney hires the CPA and the two tax practitioners work together to represent the taxpayer.

## WE ARE AVAILABLE TO HELP

Thompson & Knight attorneys have significant experience in assisting taxpayers facing these situations and can counsel you on how to reach the best outcome. If you have any questions about the information contained in this Client Alert, please contact the Thompson & Knight attorney with whom you regularly work or one of the attorneys listed below.

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