



**IIC e-Town Hall**  
***Tax Compliance Officers***  
**Updates and Technical Issues**

May 2013



**Large Business  
& International**

# Welcome!



**Dave Horton**

Director

International Individual Compliance

# Welcome Back Pam!



**Pam Drenthe**  
Director  
IIC Field Operations

Over 20 years of experience in the International organization:

- ❖ International Examiner
- ❖ International Team Manager
- ❖ Nationwide Program Manager
- ❖ Executive Assistant for Deputy Commissioner International
- ❖ First DFO for IIC
- ❖ Graduate of the 2012 Candidate Development Program

# Agenda

- ❖ IIC Environment & Taxpayer Population
- ❖ Administration / Strategies / Priorities
- ❖ Program Delivery
- ❖ IIC Updates:
  - International Practice Networks
  - Canadian OVDI Cases
  - Treaty Cases
  - U.S. Government Employees Claiming FEIE (IRC 911)

# IIC Environment

- ❖ Not everyone in IIC has a clear understanding of our taxpayer population and the work we do.
- ❖ We need to be able to communicate a consistent message within IIC, to others in the IRS and to those outside the IRS.

# IIC Taxpayer Population

- ❖ Who We Are?  
Administration
- ❖ What's important?  
Strategy \ Priorities
- ❖ What We Do?  
Program Delivery

# Administration

- ❖ In relation to actions taken by the IRS, define the taxpayer population for which IIC is accountable
  - Understand trends
  - Pursue legislative changes
  - Taxpayer education
- ❖ Who else are we accountable for?
- ❖ How can we describe/identify them?

# Administration

Who they are?	How do we describe \ identify them?
US (citizens or green card holder) living abroad	Foreign earned income exclusion;
US (citizens or green card holders) residing in US possessions	If have worldwide income, then file in possession (for only possession income) then file a 1040 in US (income from outside of possession)
Non resident aliens with US sourced or effectively connected income	Visa holder; lives in another country but has US income earned (US partnership; US rental property; less than 183 days - personal services rendered, etc); foreign tennis player
Ex-patriates	People who have given up (US citizenship or green card status) yet still have filing requirement
Resident aliens (meet physical residency tests)	Come in under special visa; more than 183 days; specialized rules from treaties
US (citizens or green card holders) residing in the US but have international transactions \ assets in foreign country \ working for international org \ etc (cross border)	hold assets or entities outside US; earnings from personal services rendered outside US; misapply treaty benefits
APO \ FPO	Military taxpayers stationed outside the US



# Strategies \ Priorities

- ❖ Where does the IRS need to focus its resources?
  - Develop strategies for addressing issues and identifying which BOD will be responsible for taking specific actions.
  - Each party will define how it will get things done within the framework set forth by IIC.
- ❖ What needs to be done to administer the tax law?
- ❖ Who should do the day-to-day work?

# Strategies \ Priorities

Activities	Description
Offshore Activities	
Voluntary Disclosures	
Traditional	
Matrix focused	Insurance; brokerage (worked before); private banking (banking cases outside of OVDI); hedge funds (worked before – what types of issues? investors); merchant accounts (worked these heavily in SB\SE); compensation US business activity (from employment and effect of tax treaties)
FATCA	Form 8938 (analysis of impact on identification of returns; not necessarily its own issue); circumvent FATCA rules
Other data sources	Visa; foreign IRP data (EOI); BDI (bank deposit information on US persons to Foreign govts)

# Program Delivery

- ❖ The work we do each day. What IIC is responsible for delivering to meet our goals.
  - These are the activities which appear on our scorecards or in our year end assessments as business results.
- ❖ How does what we do tie back to the strategies/priorities?

# Program Delivery

W h o ?	A c t i v i t i e s ?
I P N	S u p p o r t a l l p e o p l e w o r k i n g o n i n t e r n a t i o n a l i s s u e s – I P S u n i t s , t r a i n i n g , e t c .
P S P	W h o s h o u l d g e t f i r s t c r a c k a t f i l t e r i n g ? C o n s i d e r p r i o r i t i z i n g b o t h o u t s i d e o f a n d w i t h i n I I C – p r o c e s s a n d c r i t e r i a ( N A I C S c o d e s ) – k n o w n g r o u p o f e n t e r t a i n e r s a n d o t h e r s t o f o c u s o n .
A u d i t s	<p>N o n - r e s i d e n t a l i e n s ; F o r m 1 1 1 6 – I I C f o r e i g n a d d r e s s e s , o t h e r s i t u a t i o n s – r e f e r r a l s v i a S R S ; w h a t c r i t e r i a s h o u l d w e u s e ? ; t a x p a y e r s w i t h f o r e i g n a d d r e s s e s ; U S t a x p a y e r s w i t h f o r e i g n b a n k a c c o u n t – s h o u l d t h e s e a l l b e w o r k e d b y S B S E ? C a n w e s e t c r i t e r i a f o r t h o s e w h i c h w e m a y w a n t t o h a n d l e o u r s e l v e s ? ; o f f s h o r e s t r u c t u r e s - 3 5 2 0 , i n s u r a n c e c o m p a n y , o t h e r v e h i c l e t o a c h i e v e r e s u l t s ; f o r e i g n p a r t n e r s h i p s ; C F C – r e f e r r a l t o I B C n o w – s h o u l d t h a t b e I I C f i r s t ? P r o b a b l y s h o u l d c o m e f i r s t t o I I C – w e w o u l d t a k e d i f f e r e n t l o o k , d i f f e r e n t a p p r o a c h ; d o o t h e r c a m p u s e s P h i l l y s t i l l d o s o m e A U R t y p e w o r k o n u n d e r r e p o r t e r ? ( U A 9 5 w o r k w a s \ i s p e r f o r m e d b y P h i l l y . )</p> <p>B u s i n e s s e n t i t i e s - F o r e i g n T r u s t s ( 1 0 4 0 N R , 1 0 4 1 ) , c o r p o r a t i o n s w / b o o k s a n d r e c o r d s o u t s i d e U S w i t h &lt; \$ 1 0 M i n a s s e t s ( C F C s , p e r s o n a l s e r v i c e c o r p s , s - c o r p s , p a r t n e r s h i p s ) , 1 1 2 0 F s e r i e s ( &lt; \$ 1 0 M a s s e t s , 1 1 2 0 F S C , 1 1 2 0 P C , 1 1 2 0 L , 1 1 2 0 S ) , o t h e r f o r m s o f b u s i n e s s s t r u c t u r e s w / &lt; \$ 1 0 M a s s e t s , L L C , L L P</p>

# IIC Technology Updates

- ❖ 1040NR Scanning Pilot
- ❖ E-Fax/International E-Fax
- ❖ Scanning Copiers
- ❖ Video Tool

# International Practice Networks

- ❖ The IPNs are designed to allow us to better share our collective experience and expertise so that everyone can work smarter and avoid recreating the wheel again and again

# IPN Steering Committees

- ❖ Steering Committees are the engine behind the networks –
  - Track developments, regulations and emerging issues
  - Conduct network calls and training sessions
  - Identify employees with expertise, build relationships and connect them to others
  - Transfer knowledge to others
  - Coordinate with other IPNs on cross cutting issues

# Network Participants

- ❖ Network Participants are critical to the success of the IPNs –
  - Make collaboration part of your day to day job
  - Be an active participant on conference calls
  - Contribute knowledge
  - Provide feedback and suggestions on training you would like
  - Make yourself available to help others
  - Pose questions and case-specific observations related to topics currently impacting an issue
  - Share advice/guidance received from Counsel



# IPN Success Story

- ❖ IIC case shared by a Revenue Agent during a USBA network event (conference call)
- ❖ Case involved a Non-Filer Foreign Athlete
- ❖ Realized issue of non-withholding on winnings
- ❖ Steering Committee involved CWA and the new IBC Withholding Practice
- ❖ Resulted in issuance of CWA Soft Letter = withholding for current year
- ❖ Possible examination for prior years

# Some IPN Accomplishments to Date

- ❖ Updated FTC Workbook
- ❖ ERCP Workbook
- ❖ Treaty / Visa Toolkit
- ❖ Desk Guides (Summons, Statute and Interview & Investigative Techniques)
- ❖ Delivery of Network Events (CENTRA & Conference Calls)
- ❖ Populated IPN SharePoint sites with useful resources / contact

# International Practice Service

- ❖ A central repository for the collective knowledge and expertise of our International Staff -
  - Matrix based website accessible from the LB&I Portal
  - Interactive website tool designed for use by all International Specialists
  - Will consist of a collection of detailed “Practice Units”
  - Does not replace the IPNs

# Practice Units

- ❖ The Practice Units will focus on specific transactional scenarios and topics –
  - Will provide practical, step-by-step information on developing facts, exploring issues and preparing arguments
  - Will provide guidance to help identify issues at the start of the examination
  - Will link to searchable library of the resources
  - Envisioned to be an ever-evolving universe of materials

# IIC Practice Units Now Available

IPN	Practice Unit Name
US Investment Activities	<a href="#"><u>Overview of Withholding under FIRPTA for Sales by Individuals (§1445)</u></a>
Jurisdiction To Tax	<a href="#"><u>US Persons Residing Abroad Claiming Additional Child Tax Credit</u></a>
US Business Activities	<a href="#"><u>Product Endorsement Contract Income</u></a>
Foreign Entities	<a href="#"><u>Defining the Entity - Foreign Trusts</u></a>
Offshore Arrangements	<a href="#"><u>Basic Offshore Structures Used to Conceal Beneficial Ownership</u></a>
Foreign Tax Credit	<a href="#"><u>French Foreign Tax Credit</u></a>

# What's Next for the IPNs

- ❖ Continue identification and roll out of network calls and training sessions
- ❖ Increase collaboration of IIC issues during network calls and other events
- ❖ Increase involvement of IIC examiners in IPN events (looking for volunteers – how about you?)
- ❖ Continue the development and sharing of Practice Units
- ❖ Identify experts in the field to assist with Practice Unit development
- ❖ Identify gaps in strategic issues involving each IPN

# Canadian OVDI Cases

- ❖ U.S. taxpayers residing in Canada that filed under the 2011 OVDI program. Requirements:
  - A. Filing of delinquent tax returns -2003 to 2010
  - B. File Form 8891 for Canadian pensions
  - C. Filing of FBAR forms– 2003 to 2010
- ❖ These type of taxpayers may be eligible for the 2012 streamline filing compliance procedures, **if**:
  - A. TP has been living outside of the U.S. since 1/1/09
  - B. Has not file a U.S. tax return for 3 years prior to 2012
  - C. Still have delinquent Form 8891

# Canadian OVDI Cases

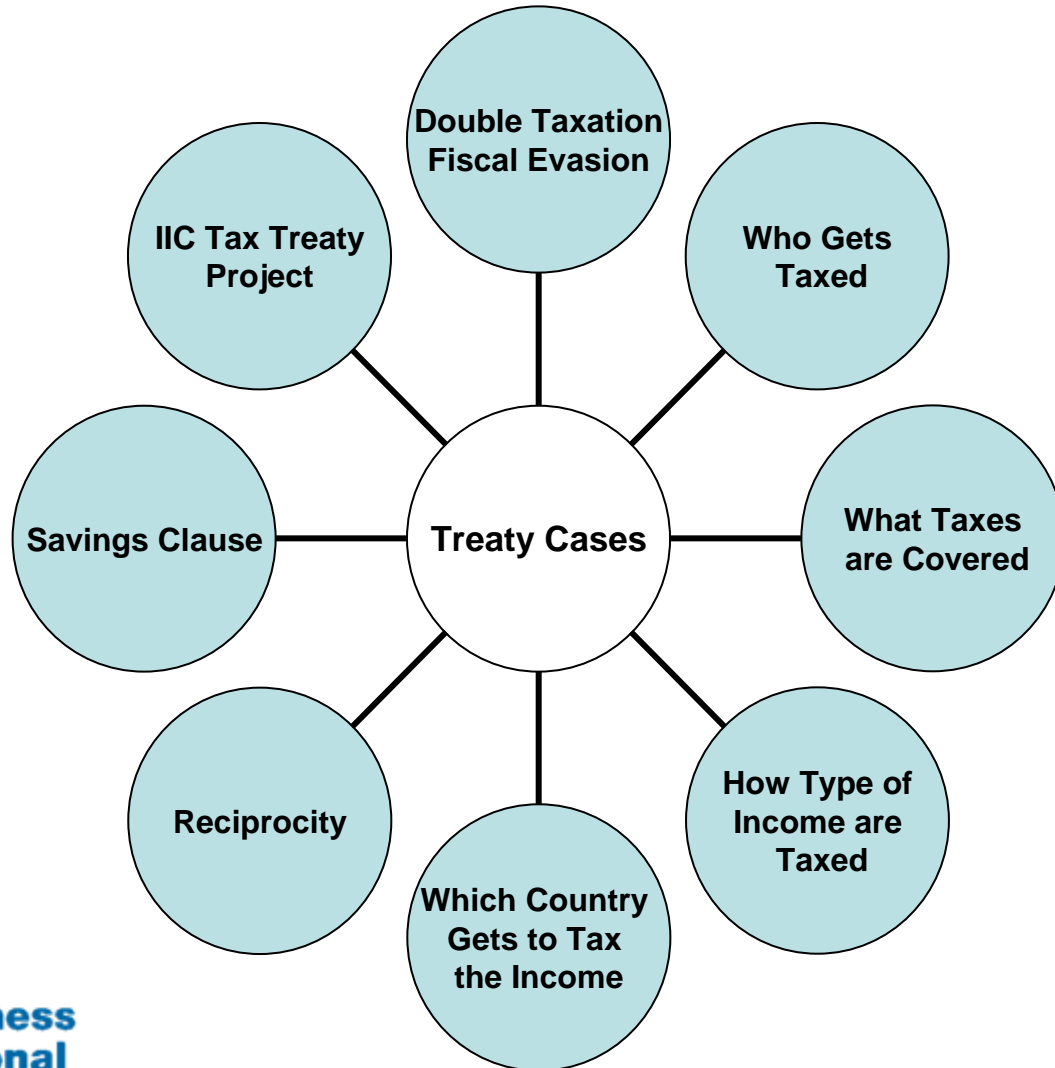
- ❖ TCO teams are working these streamline cases. There are 2 types of streamline procedures:
  - Low Risk (individuals with less \$1,500 in tax)
  - High Risk (individuals with more than \$1,500 in tax, claiming refunds, or other material economic activities in the U.S.)



# Canadian OVDI Cases

- ❖ Items that TCO's should be aware of:
  - Miscalculations on FEIE and FTC
  - Carryover of withholding credits and FTC carryovers (5 year v. 10 year limitations)
  - Distributions from Trusts – Form 3520
  - Loans to shareholders – Form 5471
  - Qualified dividends

# TCO - Treaty Cases



# TCO - Treaty Cases

- ❖ Double Taxation/Fiscal Evasion
- ❖ WHO gets taxed
- ❖ WHAT taxes are covered
- ❖ HOW type of income are taxed
- ❖ WHICH country gets to tax the income
- ❖ RECIPROCITY
- ❖ SAVINGS CLAUSE
- ❖ IIC Tax Treaty Projects

# U.S. Government Employees Claiming FEIE (IRC 911)

- ❖ Cases involve US federal employees claiming the foreign earned income exclusion
- ❖ Generally not eligible for the exclusion
- ❖ Section 911(b)(1)(B)(ii) clearly defines that any income earned by an employee of a US agency or paid by the US is not foreign earned income
- ❖ The preplan phase of the case is critical in identifying whether a taxpayer is potentially a US government employee (e.g., W2 from US Dept of Army, DFAS, Internal Revenue Service, etc)
- ❖ Review the Form 2555 and IRPTR to help identify if a taxpayer is a US government employee or contractor

# U.S. Government Employees Claiming FEIE (IRC 911)

- ❖ The interview of the taxpayer can further support your evidence of the taxpayer's employer
- ❖ Questions to ask:
  - Who is your employer?
  - What is your pay grade/scale?
  - What country are you working in and how long have you been there?
  - Have you traveled back to the US and for how long?
- ❖ Educate the taxpayer on the foreign earned income exclusion; explain to them that US federal employees are not eligible for the exclusion

# Questions



# Closing



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