

## US: Latest additions to LB&I compliance campaigns focus on transfer pricing and information reporting

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On 16 April 2019, the United States (US) Internal Revenue Service (IRS) announced three new Large Business and International (LB&I) compliance campaigns, bringing to 53 the total number of LB&I compliance campaigns announced since enactment of the *Tax Cuts and Jobs Act* (TCJA). The new campaigns concern: (1) transfer pricing between US multinational companies and their foreign captive service providers; (2) income tax and information reporting requirements for offshore bank accounts; and (3) correctly filing Form 5471, *Information Return of U.S. Persons With Respect to Certain Foreign Corporations*.

These new campaigns are in addition to: 13 campaigns announced on 31 January 2017; 11 campaigns announced on 3 November 2017; 5 campaigns announced on 13 March 2018; 6 campaigns announced on 21 May 2018; 5 campaigns announced on 2 July 2018; 5 campaigns announced on 10 September 2018; and 5 campaigns announced on 30 October 2018.

Campaigns are designed to select returns with identified potential compliance risks. According to the announcement, LB&I identified the campaigns through its data analysis and suggestions from IRS compliance employees. LB&I's stated goal for its campaigns is to "improve return selection, identify issues representing a risk of non-compliance and make the greatest use of limited resources."

In the announcement, LB&I briefly explains each issue, describes the planned treatment streams, and names the lead LB&I executive and practice area.

### **1. Captive services provider campaign**

This campaign evaluates transfer prices between US multinational companies and their foreign captive service providers to determine whether they are arm's length using data available on uncontrolled companies performing functions, employing assets, and assuming risks comparable to those of a foreign captive service provider. The IRS intends to administer this campaign using issue-based examinations and "soft" letters.

### **2. Offshore private banking campaign**

This campaign aims to increase compliance with income tax and information reporting requirements for private offshore bank accounts. The IRS possesses records identifying taxpayers with transactions or accounts at offshore private banks. The IRS will "initially" use examination and soft letter treatment streams for this campaign, but may develop additional teams, depending on the feedback received.

### **3. Loose filed Forms 5471 campaign**

This campaign aims to get taxpayers to file correctly by attaching it to their income tax, partnership or exempt organization return and filed by the return's due date, including extension. Some taxpayers are incorrectly filing Form 5471 by sending the form to the IRS without attaching it to a tax return (or partnership or exempt organization return, if applicable). If a Form 5471 must be filed and was not attached to an original return, an amended return with the Form 5471 attached should be filed.

## **Implications**

The IRS continues to analyze tax return and other information to identify campaigns for audit. The addition of these three new campaigns demonstrates LB&I's continued efforts to move toward an issue-based examination program in which selection of tax returns for audits will be based on identified campaign issues. These new campaigns continue to focus on additional international and withholding campaign issues, similar to earlier campaigns targeting international individual and withholding issues. The captive services provider campaign targets multinationals paying their foreign subsidiaries higher than arm's-length amounts. Taxpayers that may be affected by a campaign should consider developing strategies to effectively respond to any formal or informal inquiries from the IRS (i.e., issue-based examinations or soft letters). In addition, the entire [list of 53 campaign issues](#) can be used as a source for assessing potential tax controversy risks and in the preparation of IRS audit-ready files.

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