

THE IRS APPROACHES CAI AS SOLE REPRESENTATIVE OF THE INDUSTRY

By: Gary A. Porter, CPA

When the Internal Revenue Service (IRS) decided they had a potential problem with the homeowners' association industry, they turned to CAI, the only organization they recognized as the representative for the entire industry. CAI's legislative affairs department maintains relationships with various congressional officials, and with government offices that impact our industry. The profile maintained by CAI with the IRS has been a low profile, as that was all the IRS would allow in recent years. CAI has long endeavored to create an open dialog with the Internal Revenue Service regarding industry tax issues. Specific goals have been to attempt to minimize significant audit issues, to educate the IRS about our industry, and to gain knowledge of the IRS's position on certain issues before they become problems for the industry. While the IRS is a public agency, it is not charged with the responsibility of talking with every individual or industry group that desires an audience, so is not required to talk to industry groups. However, the IRS does occasionally reach out to interested parties in an attempt to gain knowledge about an industry, when they have determined it is in the government's interest to do so.

The low profile relationship maintained by CAI paid off in 1996, when we were contacted in June by highly placed IRS officials to discuss their perception of a lack of compliance with tax law in our industry. I and CAI staff members met with IRS officials representing the Examinations division, Chief Counsel's Office, and Special Industries Group. The IRS's stated purpose in contacting CAI was to identify and quantify the extent of compliance problems, and determine if any additional guidance in the form of new rulings should be issued by the IRS. CAI's purpose was to establish a forum for discussing our perceived problems with current IRS audit activity, gain an understanding of IRS thinking on certain issues, educate the IRS about the industry, and to achieve whatever benefits possible for associations, particularly for tax returns already filed before any new, clarifying rulings are issued. We understood that this would likely be a two-year process, simply because we are trying to coordinate between so many people.

Some background is necessary to understand the setting of this situation. CAI has for years attempted to seek an open

“IRS requests meeting with CAI officials to discuss perceived lack of compliance issues for homeowners associations.

CAI given opportunity to present IRS with “wish list” of problems with the IRS interpretation of certain rulings.”

exchange of information with the IRS. Our requests for an audience intensified four years ago as a result of the San Diego IRS audits, and were renewed with the Florida timeshare audits of 1995. We requested to meet with the Special Industries Group, which is responsible for technical issues affecting the industry. This Group has the responsibility of writing Revenue Rulings and Private Letter Rulings under Internal Revenue Code Section 528, and also Section 277 as it relates to homeowners' associations. While I have had informal telephone contact with individuals within this group for many years, they have resisted CAI's (and my) efforts to allow any significant face to face discussions. The IRS is reluctant to meet with public groups to discuss technical issues, as they do not want to have their informal statements misconstrued as having been made as official IRS positions.

The 1996 contact was initiated by the Examinations Division of the IRS. This is significant, as it implies that the perception of lack of compliance was generated from a field office (probably as a result of tax return audits) rather than the national office. The IRS perceived a compliance problem, and decided to take action by contacting industry representatives directly. This type of industry interaction is useful to the IRS, and has occurred many times in the past with other industries. The Special Industries Group is a necessary part of their task force, as that Group provides the technical insight necessary for a complete understanding of the issues. The Chief Counsel's Office input will be required if any proposed new rulings result from these



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discussions. The IRS has indicated that they will issue a ruling or rulings as a result of these discussions if they deem it necessary to improve compliance.

CAI entered the discussions with a cause to present, and armed with industry statistics to demonstrate that the vast majority of associations are in compliance with existing law.

The IRS's own statistics indicate that fewer than 15% of associations nationwide appear to have serious compliance problems. We also compiled our "wish" list of problems with the IRS's interpretation of certain rulings, and suggested solutions to existing problems. These items closely parallel CAI's public policy on taxation, and our current legislative effort to simplify tax law. (See Summer 1997 issue)

After several meetings in which various technical issues were discussed, we believe that the IRS has clearly stated the issues they wish to address. CAI has presented a "wish" list of the items we would like to see addressed. We are now waiting for a response to our list from the IRS. We anticipate one additional meeting in Washington, D.C.

during 1997. We expect that at that meeting we will be able to further refine the issues, explore the possible methods of addressing the issues, determine the most likely direction for resolving the issues, and set an agenda and time line to proceed.

While this seems like a painfully slow process, it is necessary to have enough time to fully consider all issues, and to involve the appropriate individuals. CAI's accountants committee is expected to review any proposed solutions prior to making final commitments, so as to allow input from tax preparers and associations nationwide. Any gains achieved in this process are the result of CAI's efforts, and progress and recognition in representing the industry.

When the government comes to us, we recognize that we have arrived.

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