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DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, DC 20224

**PRIVACY, GOVERNMENTAL
LIAISON AND DISCLOSURE**

April 26, 2019

John Greenewald, Jr.
27305 W Live Oak Rd, Ste #1203
Castaic, CA 91384

Dear Mr. Greenewald, Jr.:

This is a final response to your Freedom of Information Act (FOIA) request dated May 27, 2019, that we received on May 27, 2019.

You asked for a copy of the FOIA training presentation in 2017 by Jennifer Black at IRS Headquarters. This also includes all handouts, summaries, emails, letters, memos, etc.

Of the 19 pages located in response to your request, I am enclosing 19 pages. I am withholding six pages in part for the following reason:

FOIA exemption (b)(5) exempts from disclosure inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency. The specific privileges covered by this exemption are:

- The deliberative process privilege protects documents that reflect the pre-decisional opinions and deliberations that play a direct part in the process of making recommendations on legal or policy matters.
- The attorney-client privilege protects confidential communications between an attorney and a client relating to a legal matter for which the client has sought professional advice.

The redacted portions of each page are marked by the applicable FOIA exemptions. This constitutes a partial denial of your request.

You may contact our FOIA Public Liaison, Herbert Ottenbreit, to discuss your request at:

300 North Los Angeles St., 3rd Fl., MS 4515
Los Angeles, CA 90012-3308
(213) 372-4599

The FOIA Public Liaison responds to FOIA and Privacy Act requests for copies of documents maintained by the IRS. There is no provision in either Act to resolve tax, collection, or processing issues and our staff is not trained to answer questions regarding those issues. If you need assistance with tax related issues you may call the IRS toll free number at 1-800-829-1040.

If you are unable to resolve your FOIA dispute through the FOIA Public Liaison, the Office of Government Information Services (OGIS), the Federal FOIA Ombudsman's Office, offers mediation services to help resolve disputes between FOIA requesters and Federal agencies. The contact information for OGIS is:

Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road--OGIS
College Park, MD 20740-6001
202-741-5770
877-684-6448
ogis@nara.gov
ogis.archives.gov

You have the right to file an administrative appeal within 90 days of the date of this letter. By filing an appeal, you preserve your rights under FOIA and give the agency a chance to review and reconsider your request and the agency's decision. I've enclosed Notice 393, *Information on an IRS Determination to Withhold Records Exempt From the Freedom of Information Act - 5 U.S.C. 552*, to explain your appeal rights.

If you have any questions, please call Tax Law Specialist Lauri Takeguchi, ID # 1000682891, at 408-283-1465 , or write to: Internal Revenue Service, Centralized Processing Unit, P.O. Box 621506, Stop 211, Atlanta, GA 30362-3006. Please refer to case number F18149-0011.

Sincerely,



Herbert Ottenbreit
Acting Disclosure Manager
Disclosure Office 14

Enclosure
Responsive Records
Notice 393



Department of the Treasury
Internal Revenue Service

Notice 393

(Rev. September 2016)

Information on an IRS Determination to Withhold Records Exempt From The Freedom of Information Act – 5 U.S.C. 552

Appeal Rights

You may file an appeal with the Internal Revenue Service (IRS) within 90 days after we (1) deny you access to a record in whole or in part; (2) have made an adverse determination as to your category as a requester; (3) deny your request for a fee waiver or reduction; or (4) have advised you that no records responsive to your request exist. You may file an appeal within 10 days when a request for expedited processing has been denied.

Your appeal must be in writing, must be signed by you, and must contain:

Your name and address,

- Description of the requested records,
- Date of the request (and a copy, if possible),
- Identity of the office and contact on the response letter, and
- Date of the letter denying the request (and a copy, if possible)

Mail your appeal to:

IRS Appeals

Attention: FOIA Appeals
M/Stop 55202
5045 E. Butler Ave.
Fresno, California 93727-5136

Judicial Review

If we deny your appeal, or do not address an issue raised in your appeal within 20 days (excluding Saturdays, Sundays, or legal public holidays) after the date we receive your appeal, you may file a complaint in United States District Court in the district in which (1) you reside; (2) your principal place of business is located; (3) the records are located; or (4) the District of Columbia. A complaint may be filed within 10 days (excluding Saturdays, Sundays, or legal public holidays) after the date we receive your appeal if your appeal is from an adverse determination of a request for expedited processing. If you choose to file suit before receipt of a final determination by the Appeals office, the administrative appeals process may cease.

The rule for effecting service of judicial process upon the Internal Revenue Service is set forth in Federal Rule of

Civil Procedure 4(i). In addition to service upon the United States, as set forth in Rule 4(i)(1), service must be made upon the Internal Revenue Service by registered or certified mail as set forth in Rule 4(i)(2)(A).

The address of the Internal Revenue Service is: Internal Revenue Service, Attention CC:PA, 1111 Constitution Avenue, N.W., Washington, D.C. 20224.

Exemptions

The Freedom of Information Act, 5 U.S.C. 552, does not apply to matters that are:

(b)(1) • specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and are in fact properly classified under such executive order,

(b)(2) • related solely to the internal personnel rules and practices of an agency,

(b)(3) • specifically exempted from disclosure by statute (other than section 552b of this title), provided that the statute:

(A) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or

(B) establishes particular criteria for withholding or refers to particular types of matters to be withheld.

Note: Internal Revenue Code sections 6103 and 6105 are statutes which qualify for exemption 3 treatment. Section 6103 protects the confidentiality of tax returns and information pertaining to a taxpayer collected by the IRS. Section 6105 protects information obtained from a foreign country under a tax treaty.

(b)(4) • trade secrets and commercial or financial information obtained from a person and privileged or confidential,

(b)(5) • inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency,

(b)(6) • personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy,

(b)(7) • records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information:

(A) could reasonably be expected to interfere with enforcement proceedings,

(B) would deprive a person of a right to a fair trial or an impartial adjudication,

(C) could reasonably be expected to constitute an unwarranted invasion of personal privacy,

(D) could reasonably be expected to disclose the identity of a confidential source, including a State, local or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of a record or information compiled by a criminal law enforcement authority in the course of a criminal investigation or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source,

(E) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law, or

(F) could reasonably be expected to endanger the life or physical safety of any individual.

(b)(8) • contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions, or

(b)(9) • geological and geophysical information and data, including maps, concerning wells.

From: [TSS4510](#)
To: [Black Jennifer M](#)
Cc: [Christopher Charles B ; TSS4510](#)
Subject: FW: Open case - TRNIN-124490-17
Date: Wednesday, August 09, 2017 4:35:40 PM

Good afternoon,

The training assignment has been created for Jennifer Black. The case number is TRNIN-124490-17.

Thank you,

Kelly D. Bell
Technical Support Services Branch
Procedure and Administration
IRS Office of Chief Counsel

From: Black Jennifer M
Sent: Tuesday, August 08, 2017 10:48 AM
To: TSS4510
Cc: Christopher Charles B
Subject: Open case

Good morning!

Would you please open a TRNIN case entitled "Tax Law Specialist FOIA training 2017" and assign it to me?

Thanks,
Jenni

Jenni M. Black
Senior Counsel
Procedure and Administration, Branch 7
Office of Chief Counsel, Internal Revenue Service
1111 Constitution Ave NW, Room 5243
Washington, DC 20224
Phone: (202) 317-5216
Email: jennifer.m.black@irs.counsel.treas.gov

From: [Valvardi Christopher](#)
To: [Black Jennifer M](#)
Subject: RE: FOIA training
Date: Tuesday, August 01, 2017 8:37:41 AM

Hi Jenny,

This is a relatively minor thing, but it may be worth advising them that when the request involves a specific taxpayer—especially if there's an ongoing exam—it really helps to include in the AFOIA case notes a list of the IDRS codes used in the search. Those details can be very helpful in defending the adequacy of the search during litigation.

That's all I can think of at the moment.

Thanks,
Chris

From: Black Jennifer M
Sent: Tuesday, August 01, 2017 8:02 AM
To: Lambert-Dean Deborah C; Newsome Helene R; Harrison Brittany L; Valvardi Christopher; Mielke Amy
Subject: FOIA training

Hi all,

I will be doing a 2 hour training for new Tax Law Specialists that will be working FOIA cases at the end of August. Sarah already provided me with some topics from when she has done the training in the past but I wanted to reach out to everyone to see if you had any suggestions for topics or points to make during the training.

Thanks,
Jenni

Jenni M. Black
Senior Counsel
Procedure and Administration, Branch 7
Office of Chief Counsel, Internal Revenue Service
1111 Constitution Ave NW, Room 5243
Washington, DC 20224
Phone: (202) 317-5216
Email: jennifer.m.black@irscounsel.treas.gov

From: [Higley Denise](#)
To: [Black Jennifer M](#)
Subject: RE: Upcoming TLS Training
Date: Tuesday, August 01, 2017 8:10:48 AM

Morning Jenni,

We can adjust the time to accommodate your schedule – that's no problem. Is two hours enough time, too long??

No, this training will not be through CENTRA. We are doing face to face training in Oakland and will have you call in to a conference line where we will listen through the phone. I don't recall Sarah having a power point presentation. She attended a face to face training class but then also instructed another class virtually and called into a phone line.

If you would like to prepare a power point slide presentation that would work also. You could send it to me and we could display it in class as you speak. Whatever works for you in this virtual environment, we will work with.

Thanks again for agreeing to assist with this training.

Denise Higley

Government Information Specialist – FOIA Policy Analyst
HQ Disclosure Policy & Program Operations Staff
M/ S 7000
1973 N Rulon White Blvd
Ogden, UT 84404
801-620-7638

From: Black Jennifer M [mailto:Jennifer.M.Black@irs.counsel.treas.gov]
Sent: Tuesday, August 01, 2017 6:00 AM
To: Higley Denise <Denise.Higley@irs.gov>
Subject: RE: Upcoming TLS Training

Thanks, Denise! If we could make it a bit earlier in the day, that would be great. I normally leave at 4 pm EST. But I can stay late if needed, it's not a big deal.

I assume the training is through Centra, which I have never used. Would you like me to prepare any slides? I know Sarah didn't use them in the past but if you think it would make it easier to follow, I can do some.

Jenni Black
Senior Counsel
CC:PA:07

Phone: (202) 317-5216

From: Higley Denise [<mailto:Denise.Higley@irs.gov>]
Sent: Monday, July 31, 2017 5:18 PM
To: Black Jennifer M
Subject: Upcoming TLS Training

Hello Jenni,

It is my understanding, per Sarah Tate, that you will be providing a session in our upcoming TLS training at the end of August. We have allowed for a 2 hour presentation on Wednesday, August 30th from 12:00-2:00 PST. Since the training is going to be held in Oakland, we will be working with the pacific standard time zone and with you being on eastern standard time zone, I'm trying to coordinate our agenda in order to accommodate you in the East.

Our current 12:00-2:00 PST schedule would be 3:00-5:00 EST and this may be too late in the day depending on your tour of duty/schedule.

Please let me know what time will work for you so I can update our agenda accordingly. Our agenda is pretty flexible right now so I want to try and accommodate your schedule as best as possible.

Thank you very much, in advance, for being a part of this important training. I think Sarah was going to provide you with some topics, that she provided previously in this training but you and I can also discuss if necessary.

Suggested topics for consideration: Provide an overview of the FOIA litigation process – What can caseworkers do to mitigate litigation – When is it appropriate for caseworkers to contact Counsel for advice when processing FOIA cases....

Thanks again!!!

Denise Higley

Government Information Specialist – FOIA Policy Analyst
HQ Disclosure Policy & Program Operations Staff
M/ S 7000
1973 N Rulon White Blvd
Ogden, UT 84404
801-620-7638

From: [Lambert-Dean Deborah C](#)
To: [Black Jennifer M](#)
Subject: RE: FOIA training
Date: Tuesday, August 01, 2017 8:09:09 AM

Hi Jenni, you probably already thought of this (or Sarah did), but its important to stress that they reach out to requesters to try to narrow requests or gather more definite information as to the type of information the requester is seeking. Also, they need to know that they should not represent that we will undertake searches that are overbroad---especially for electronic data searches as we do not have the resources for those types of searches.

Also, I would stress that "Congressional records" are a hot button now for many entities in Congress who are increasingly directing agencies to treat all communications between the agency and a congressional entity as a congressional record not subject to the FOIA. It would be good to point out that that we are supposed to be segregating "congressional records" from agency records in our files and clearly identifying them as congressional. This would be good information for the specialists to pass along to those functions in the IRS they work with as they process requests.

Deborah Lambert-Dean
Attorney, P&A, Br. 6
IRS, Chief Counsel
Office: 202-317-5211
E-Fax: 855-592-8973

From: Black Jennifer M
Sent: Tuesday, August 01, 2017 8:02 AM
To: Lambert-Dean Deborah C; Newsome Helene R; Harrison Brittany L; Valvardi Christopher; Mielke Amy
Subject: FOIA training

Hi all,

I will be doing a 2 hour training for new Tax Law Specialists that will be working FOIA cases at the end of August. Sarah already provided me with some topics from when she has done the training in the past but I wanted to reach out to everyone to see if you had any suggestions for topics or points to make during the training.

Thanks,
Jenni

Jenni M. Black
Senior Counsel
Procedure and Administration, Branch 7
Office of Chief Counsel, Internal Revenue Service
1111 Constitution Ave NW, Room 5243
Washington, DC 20224
Phone: (202) 317-5216
Email: jennifer.m.black@irscounsel.treas.gov

From: [Tate Sarah E](#)
To: [Black Jennifer M](#)
Subject: RE: Upcoming TLS Training
Date: Wednesday, July 26, 2017 3:25:02 PM
Attachments: [Talking notes 2017 PGLD.docx](#)

As a starting point, attached are the talking notes I used the last time – updated with some new information based on recent events/litigation.

I'm happy to talk about them, explain cryptic notations, tell you the war story behind some of the issues, etc.

From: Black Jennifer M
Sent: Tuesday, July 25, 2017 11:07 AM
To: Tate Sarah E
Subject: RE: Upcoming TLS Training

Happy to discuss whenever, although I do have some meetings today, tomorrow, and Thursday so I will be unavailable some times.

Jenni Black
Senior Counsel
CC:PA:07
Phone: (202) 317-5216

From: Tate Sarah E
Sent: Monday, July 24, 2017 5:53 PM
To: Higley Denise
Cc: Black Jennifer M
Subject: RE: Upcoming TLS Training

Hi Denise –

Jenni is going to do this training this year. We'll talk about what I have done in the past, and identify any new topics she should cover. If you have any ideas for specific matters you would like her to address, please let us know.

Is this going to be a Centra training?

Cheers,
Sarah

From: Higley Denise [<mailto:Denise.Higley@irs.gov>]
Sent: Thursday, July 20, 2017 4:35 PM
To: Tate Sarah E
Subject: Upcoming TLS Training

Hello stranger - I hope all is well.

We are going to be conducting another TLS training session the last week of August

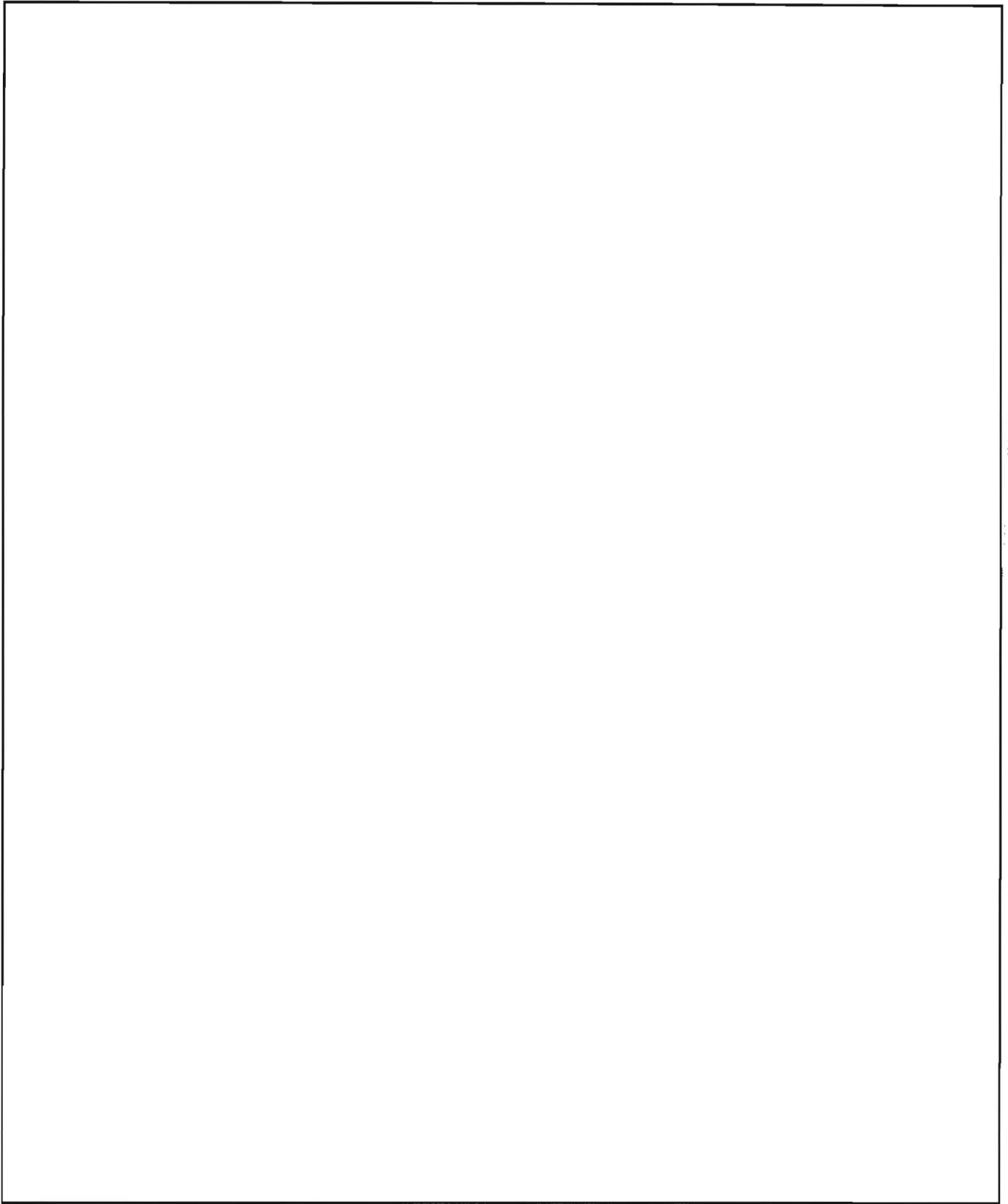
and I'm checking to see if you will be available (29th, 30th, 31st) to provide the same info you delivered last time to the TLSs re: FOIA litigation, declarations, etc?

We are in the beginning stages of putting this together but just wanted to see if you could call in & do what you do best from the FOIA counsel side of things. Thanks!!!

Denise Higley

Government Information Specialist – FOIA Policy Analyst
HQ Disclosure Policy & Program Operations Staff
M/ S 7000
1973 N Rulon White Blvd
Ogden, UT 84404
801-620-7638

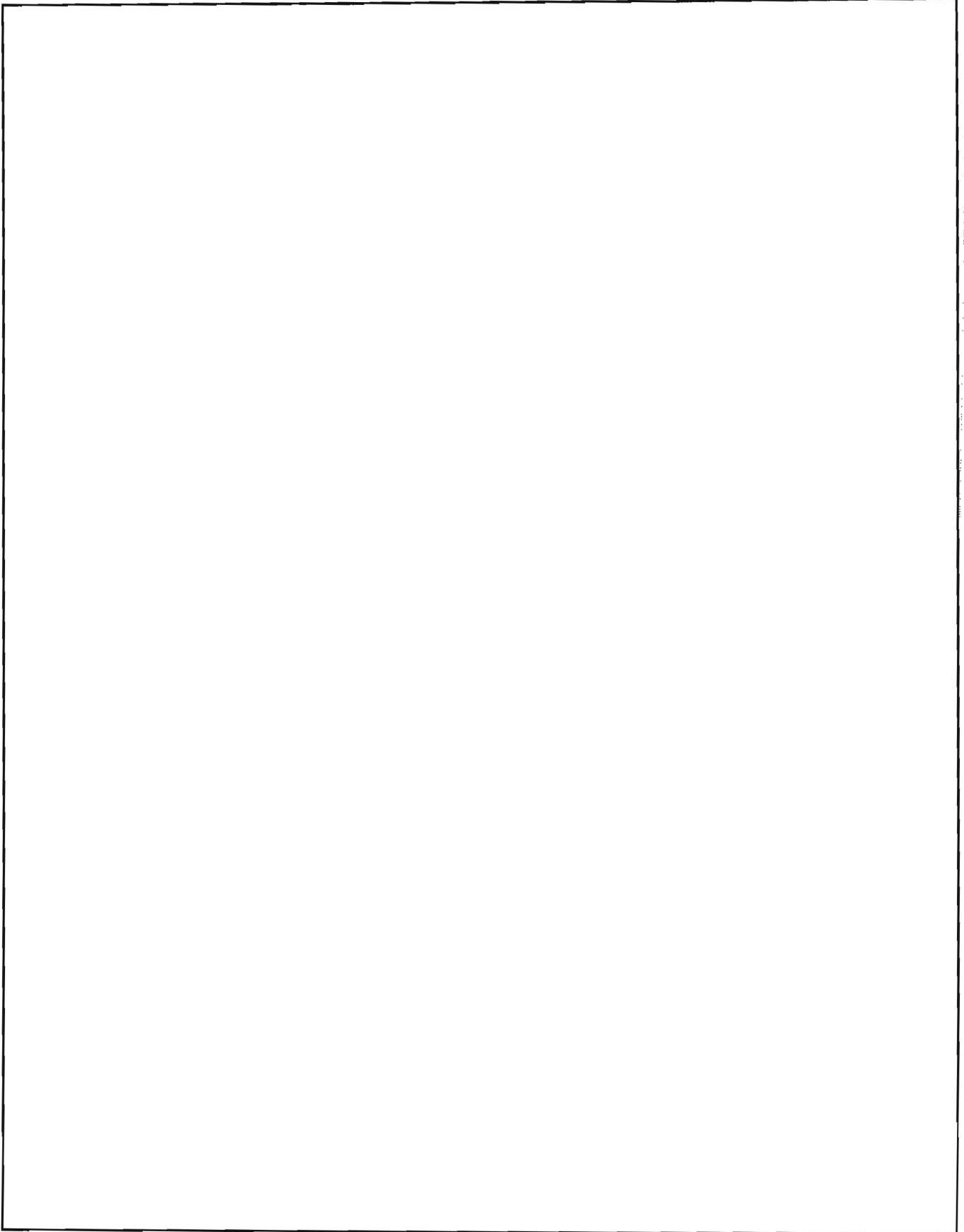
Talking notes for PGLD 7/26/17 draft

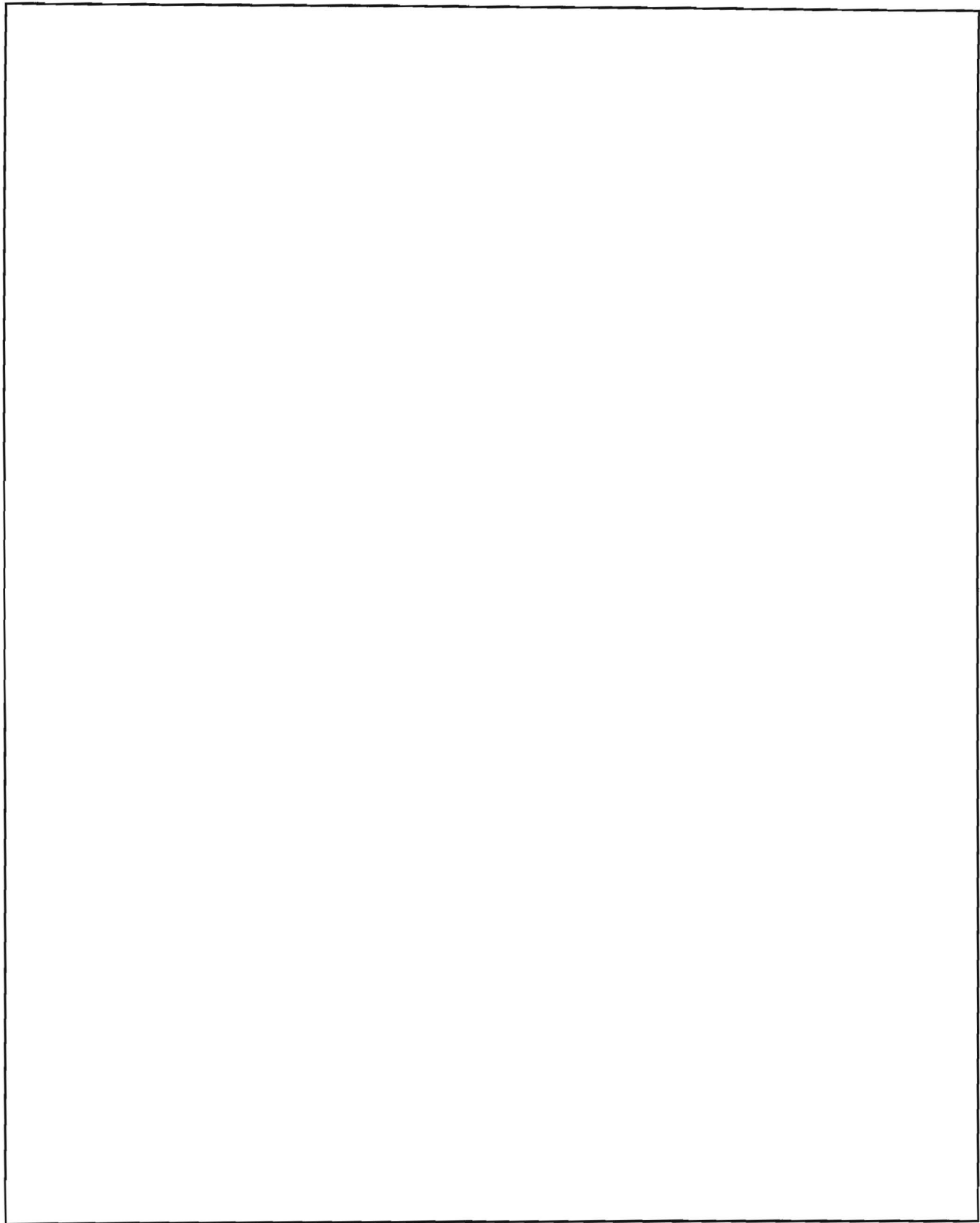


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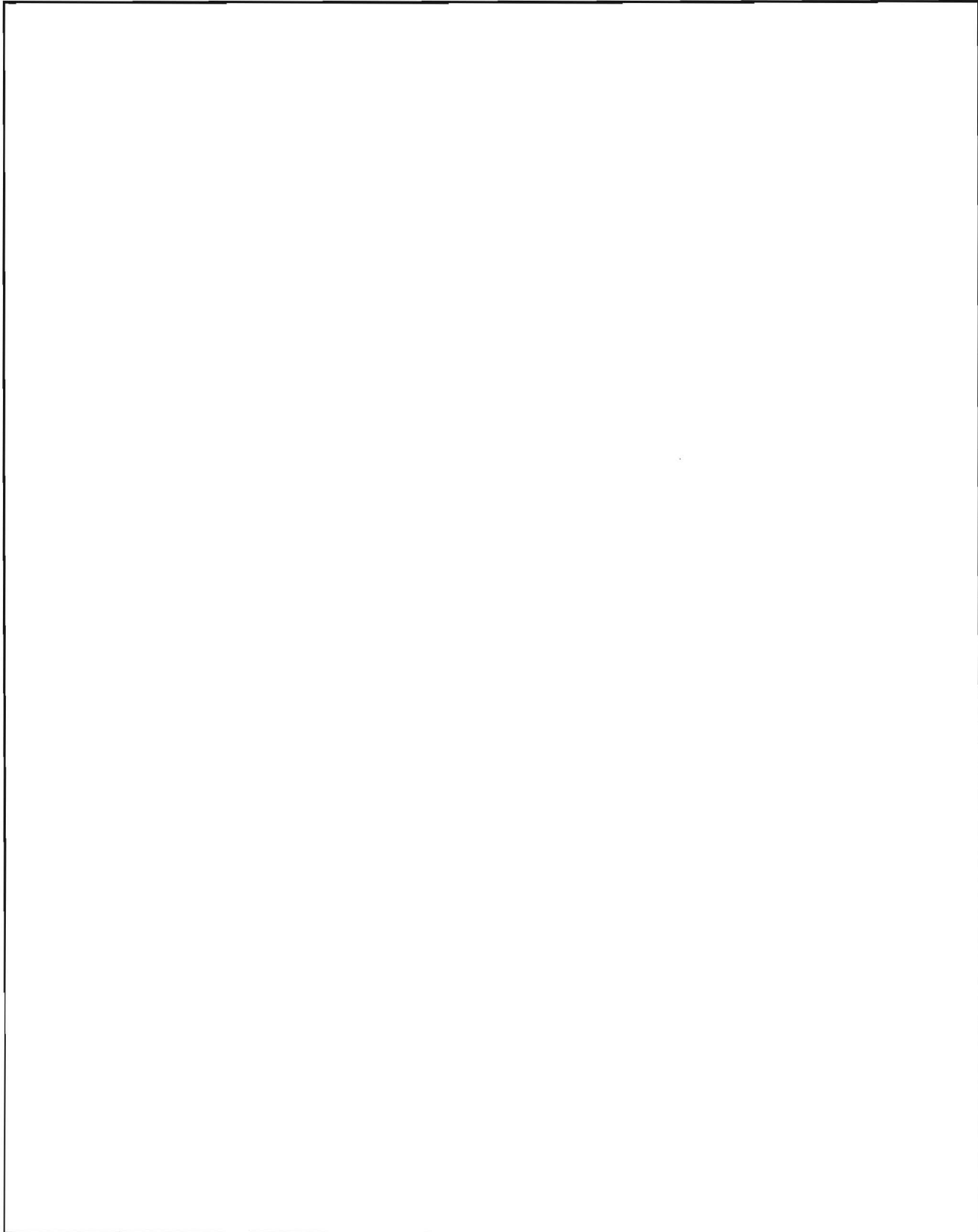
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Tax Law Specialists training – August 30, 2017

- **Initial review of the request**

- When you are assigned a FOIA request it is extremely important that you carefully evaluate the FOIA request to ensure that it is valid (i.e. reasonably describes the records, not overbroad, entitled to records sought).
 - There have been several requests that have ended up in litigation that do not reasonably describe the records but at the administrative level it was not raised. It makes it harder to raise in litigation.
 - Communicate with the requestor about what is missing/wrong with the FOIA request
 - Tell them that the 20-day processing period does not begin unless/until the request is perfected
 - We don't consolidate requests to fill in the missing pieces. All pieces have to be in each request.
- Check for duplicate or previous requests
 - Some requestors will submit multiple requests to get different processors in the hope of getting different responses (Frank Agistino). Do not let them get away with this! Duplicate requests should only be processed if there is anything new that is in the file from the last request.
 - When searching, only ask for the new stuff. Don't redo the old search or reprocess documents. If nothing new exists, say so!
- Do not guess what the requestor is asking for. If you are unsure or it is not clear, contact the requestor and get them to clarify their request.
 - Communication with the requestor is extremely important. You will notice a theme.
- Invalid or imperfect requests
 - Requests that do not reasonably describe the records
 - Things to look out for:
 - "any and all", "related to", "mentioning", or "concerning"
 - These are not per-se problematic. It depends on what they are asking for and whether we can run a search that will locate records

- Compare “any and all documents or emails referencing President Obama” with “any and all documents about Treas. Reg. § 301.9100-22T”.
- Requests that require assumptions, knowledge, or judgments prior to searching for records
 - Records reflecting the IRS has “improperly” done something
 - “All vacancies I applied for” – requestor needs to identify these, we do not know
 - We don’t do research or answer questions through FOIA
- Requests that ask for confidential records without an authorization
 - On the flip side, don’t seek identification if the request is for things anyone can have
- Overbroad requests and narrowing the scope
 - If a request is overly broad or does not reasonably describe the records, work with the requestor to find out what they are actually interested in getting
 - Get any clarification or narrowing in writing
 - Overbroad search requests (i.e. search all emails of IRS)
 - Fees
 - FOIA Improvement Act of 2016
 - Previously agencies could not charge search fees once the statutory deadline to respond to the FOIA request expired. Now, agencies may charge search fees even if the time to respond has expired if:
 - Unusual circumstances apply and more than 5,000 pages are necessary to respond to the request, but only if the agency notifies the requestor and has discussed narrowing the scope of the request with the requestor
 - Be sure to do this!
 - Virtually all requests for records out of HQ will need over 5,000 pages.
 - A court determines exceptional circumstances exist
 - Get the requestor to commit to and pay fees up front, especially if there is an estimated large search fee, prior to conducting the search. Go back and get more money once it’s used up

- Especially if they won't narrow their request
 - This includes search fees that are needed because the requestor wants the records in a specific format (which may take longer to procure).
- **Searching**
 - Be aware of each other's major projects or frequent requestors
 - Don't reinvent a search/production
 - If getting a lot of requests for similar documents – coordinate!
 - Check the reading room for responsive material
 - Direct the requestor there if it is located there
 - Initial search
 - Where to search
 - Search locations reasonably likely to have responsive documents
 - Search memos should identify why you contacted that office/person and what you think they have that would be responsive.
 - Ask searchers to identify other locations they think would have responsive documents and follow appropriate leads.
 - Not required to search where the requestor asks
 - If it's a valid place to search, then search it. If not, explain why it would not be reasonable calculated to locate responsive records in the response.
 - Doesn't prohibit us from searching invalid locations just to be able to say "we looked" but use your judgment. If it's an easy place to search, that might be ok but searching all IRS emails is not.
 - Searching emails
 - Current employees – employees do self-search
 - Separated employees – only search emails that are "readily available" – loaded into a current employee's Outlook (at which point it should be part of the employee's self-search)
 - We can also search them if they are loaded into a review platform such as Clearwell. It is my understanding that an agreement was reached where PGLD would not have access to these emails so no search would be required. However, if a search memo is sent to

Counsel, Counsel should search any emails already in these platforms if they are likely to have responsive material.

- Note on emails – only need the last email in the chain but be mindful of branched off emails and attachments part way through
 - What to search
 - Do not spend time retrieving material you know cannot be released
 - Do not retrieve or identify a large volume of unrequested material
 - Related entities are not responsive unless clearly included and authorized
 - Review material for responsiveness before numbering the pages and including them in the page count
 - Unless a search was done of a requestor-identified location
 - Reasonable search
 - An agency must make reasonable efforts to search for responsive records in electronic form or format, except when such efforts would significantly interfere with the operation of the agency's automated information systems.
 - Documenting the search
 - In the case notes, be sure to provide a detailed description of the search undertaken
 - Where you searched, why those locations, results from each location
 - Follow up with people who do not respond
 - Be as detailed as possible
 - If the request involves a specific taxpayer (especially if there is an ongoing exam), include a list of the IDRS codes used in the search
 - Note if you searched any place suggested by the requestor
 - If not, say why you didn't search there
 - Include the full identity of all people contacted in the case notes (name, phone, office ID)
- **Processing**
 - Coordination with cases in exam or litigation

- Recently, we have seen a lot of cases where requestors are filing FOIA requests while in exam or in litigation on their tax matters. These cases tend to be extremely complex and involve intense coordination with the field offices handling the exam/litigation to ensure that information is not released under the FOIA that could in any way harm, or is inconsistent with information released during, the exam or litigation.
 - If there is any indication that a request is related to a case currently in litigation or exam, coordinate with the applicable offices immediately.
 - Look for
 - References to current litigation or exam in request
 - Indicators in IDRS
 - Do not release materials under FOIA without coordinating
 - If a case is in litigation information responsive to the FOIA request may have already been produced in discovery
 - Ask what has been produced in discovery and get copies
 - Coordinate redactions
 - Recently, privileged documents were released in an administrative FOIA case while the exact same documents were being withheld as privileged in discovery
- Congressional records
 - Whenever you are responding for a FOIA request, be especially mindful of the treatment of any congressional records contained in the responsive documents. Be sure to review IRM 11.3.13.5.4 (dealing with JCT records) and 11.3.13.9.39 (dealing with requests for congressional correspondence) and seek assistance prior to releasing any congressional records.
- FOIA Improvement Act of 2016
 - Applicability of exemptions:
 - An agency may only withhold information if the agency reasonably foresees that disclosure would harm an interest protected by a FOIA exemption or if the disclosure of the information is prohibited by law.
 - If full disclosure is not possible, agencies must consider whether partial disclosure of the information is possible and

take reasonable steps to segregate and release nonexempt information.

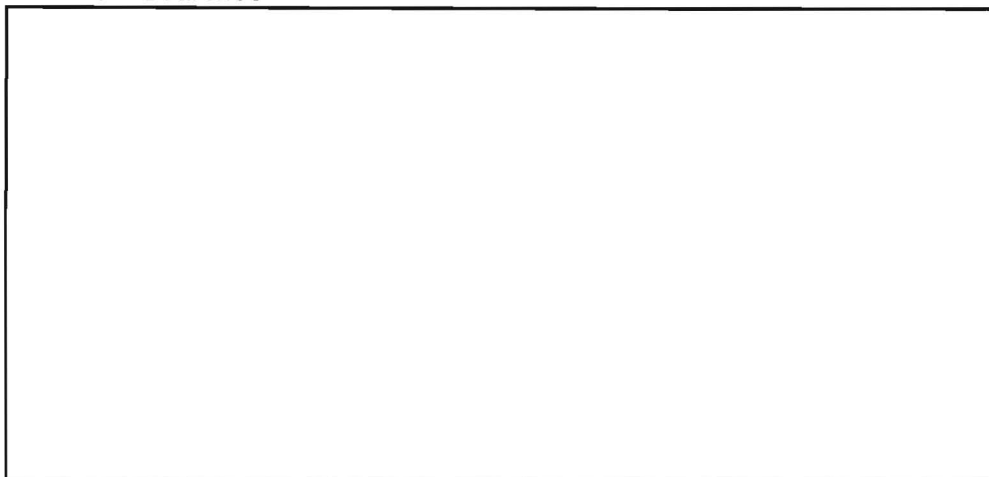
- Exemption 5 – The deliberative process privilege does not apply to records created 25 years or more before the date on which the records are requested.
 - Application to discovery
 - District court – DOJ will continue to assert the deliberative process privilege for documents created more than 25 years or more before the date of the discovery request
 - Tax Court – unclear at this point whether Counsel will follow the practice for district court or follow the FOIA for discovery as well
 - Duty to disclose
 - Although agencies previously had to proactively make available records the agency determines have become, or are likely to become, the subject of subsequent requests, agencies must now proactively make available records that have been requested three or more times.
 - Rolling productions
 - Providing the requestor with interim (or rolling) productions can make a huge difference in whether a requestor sues prior to a completed response or not. If requestors are seeing progress and are getting documents periodically, they are much less likely to sue.
 - Communication is key. Sending them extension letters with an update deadline and a new extension letter when that deadline is missed only increases litigation.
 - Also allows fees to be collected
 - Documenting the exemptions
 - Claim all applicable exemptions – do not claim just one because if we lose that one we may not be able to raise additional ones
 - When redacting, be sure to redact context – i.e. the unredacted material should not give away what is redacted
 - Be sure to include a statement of the volume of pages withheld in full, withheld in part, and say which exemptions were asserted
 - You can estimate volume if the withheld in full volume is large
 - The file must include a full explanation of what exemptions you asserted and why

- Don't leave people guessing why a certain exemption was applied
- Say what pages have which exemptions
- ☐ Not required to do a Vaughn index not an administrative index (maybe a spreadsheet) is extremely helpful in organizing responsive records
- **Contacting Counsel**
 - Contact Counsel after consulting with co-workers and your team manager
 - ☐ Copy manager on email
 - Situations where Counsel should be contacted (after consultation)
 - ☐ Seriously uncooperative field or national office Counsel (search)
 - ☐ Novel FOIA issues or new issues requiring Counsel input
 - ☐ Uncertainty in PGLD about how to handle an issue
 - ☐ Sensitive or high profile areas, especially if being handled by/coordinated through the national office
 - ☐ For field attorneys – if there is a case in litigation involving that taxpayer
 - ☐ Attempts to identify standardized responses to repeat problems (frequent requestors or types of requestors)
- **Litigation**
 - Once a complaint is filed, do not contact the requestor unless instructed to do so by Counsel
 - ☐ FOIA litigation handled by DOJ with assistance from P&A (not field attorneys)
 - ☐ If DOJ contacts you, tell them to work through P&A
 - When sending the administrative file to Counsel, consider renaming files to explain what they are.
 - ☐ Send everything – correspondence, case notes, search memos and responses, received documents, released documents. Please make sure things are organized.
 - A view from Chief Counsel



(b)(5)

Searches



(b)(5)

- **Declarations**
 - Purely factual
 - Based on the file and record and often contains attachments of search memos and correspondence
 - Provides detailed descriptions of search, review, and asserted exemptions
 - Have to provide painstaking detail to the court who is not familiar with our records system. Have to describe where searched, why, and how the search was done (what commands and search terms input). We have to describe the systems in detail and say what they contain. The more details about the search and exemptions that are maintained contemporaneously with the processing of the FOIA request the better. Memories fade and people retire!

