

Examining Officer's Activity Record		Examining Officer ██████████	Date assigned/Opened (1/22/2010)
Taxpayer name and address (Use the preprinted label if possible) Signer, Donald R. ██████████ Fremont, CA 94539 Business name and address 39639 Balentine Drive, Newark, CA 94560 Residence telephone number (510) ██████████ Business telephone number () Fax telephone number ()		Taxpayer's Representative name and address Representative has (*x proper box) <input type="checkbox"/> Power of Attorney <input type="checkbox"/> Taxpayer Authorization Representative's telephone number () Fax telephone number ()	

Contacts and Activities

Date (mmddyyyy)	LOC	CONT	Time on Activity	Remarks, Notes, Actions Taken
1/22/10	O	4	2-R 2-P	<ul style="list-style-type: none"> - RA reviewed case and informational items in case file - RA reviewed claim and printed tax law and cases referenced - RA has determined that the scope of the examination is limited since it is a claim case. Case has been previously examined and RA will limit the scope to items related to the claim.
1/25/10	O	4	4 - R	<ul style="list-style-type: none"> - RA reviewed court cases regarding equitable interest/ capital contributions vs. loans from shareholders. - RA also tried to find court cases regarding the timing of the bad debt, whether it can be taken when triggered or when the tax impact should have happened. - TP argues that there was actually a loan and that the TP was unable to pay it in 2005 when IRS had disallowed the expenses.
1/26/10	O	4	3-R	

CONT = Type of Contact 1. Field Visit 2. Telephone 3. Correspondence 4. Other (explain in remarks)

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Date (mmddyyyy)	LOC	CONT	Time on Activity	Remarks, Notes, Actions Taken
				<ul style="list-style-type: none"> - Manager agreed and told RA to write up the rebuttal.
1/29/10			4-P 4-R	<ul style="list-style-type: none"> - RA review taxpayer case file from prior examination - RA pulled court cases for both RA's position and taxpayer's rebuttal through Lexis. - RA read through court cases and determined relevant facts.
2/8/2010	O	2		<ul style="list-style-type: none"> - RA pulled CFINK and called the POA on file - POA had 2 reps (Thomas [REDACTED] and Jeffrey [REDACTED]) - Ra called Thomas first and he said that a different firm had drafted the correspondence for him - Thomas said Jeffrey [REDACTED] worked for him and that he is not sure who the other firm is, but it would be better for RA to call Taxpayer (Rep referred to taxpayer as "Don") directly - RA called taxpayer from the number found on the fax - RA got a VM saying that the dealership had closed, but that you could still leave a message. - RA left a message for TP to call RA.
2/9/10	O	2,4	8-P	<ul style="list-style-type: none"> - Home: 510-[REDACTED] - Cell: 510-[REDACTED] - RA received a call from the taxpayer in response to the message RA left yesterday 2/8/10 - RA called and informed the taxpayer that RA had his case and asked if the taxpayer had any additional information regarding the timing - Taxpayer gave more information to RA regarding the case and GM - Taxpayer informed RA of the examinations and the history of the business. - The taxpayer believes that since the previous agent had disallowed the expenses in 2005 that the taxpayer should be allowed a deduction in 2005 - RA said that it seems like the disallowance was for something that shouldn't have been happening and a bad debt deduction should have been taken in the year the new corporation had started (1995). - Taxpayer said they were unaware that the consulting fees were not deductible and could not take the bad debt since the Old Corporation had money since the agreement of the consulting arrangement. - RA said that he read that GM had more than 50% of controlling stocks when the new corporation started and when the consulting agreement had commenced, and taxpayer confirmed. - RA asked if there are any documents that the taxpayer has regarding them allowing the consulting arrangement and the taxpayer said he would e-mail it over. - RA said it may help with the determination, taxpayer said he did not know how, but he will send it over. - RA said that RA maybe able to show that the taxpayer did not have full control and that GM allowed it which would make it a more of an unrelated party transaction. - Taxpayer did not quite understand, but RA said he would see what he could do with it. - RA asked if the taxpayer could find some court cases regarding the timing of the case - Taxpayer said he would have to spend more money - RA said he will do his own research as well

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Date (mmddyyyy)	LOC	CONT	Time on Activity	Remarks, Notes, Actions Taken
				<ul style="list-style-type: none"> - Taxpayer asked about his F 1045 regarding the NOL, but RA was unsure where to find out any information on it. - RA referred taxpayer to the Customer Service line, taxpayer asked RA to ask his manager, taxpayer said that since [REDACTED] had been with the service longer that he may know. - Taxpayer also said if he had not opened the new corporation he would have still been operating under the old one where the loans would have been paid. - Taxpayer gave RA his cell and his home numbers and asked why it took so long for RA to get the case - RA said he got the case in January, taxpayer said he filed the 1040X in April of 2009 - RA researched bad debt losses in the IRC, Regs and court cases - RA also looked through training material from 1040 training. - RA asked manager about the 1045 and manager said he said there should be a posting on the IMFOLT - RA said he did not see one, manager said that that was the only place he knew of - RA found that the criteria for bad debt were bonafide loans and worthlessness of debtor. - Prior RA had argued debt vs. capital contributions and RA must determine when the company was truly worthless for timing.
2/10/10	O	4, 2	8-P	<ul style="list-style-type: none"> - RA researched court cases and reviewed rebuttal - RA found that TP must show that there was a bona fide loan first and then RA and TP could talk about timing of the bad debt - RA called TP for source documents regarding the bona fide debt that was stated in the "Taxpayer's Position" of the rebuttal and any payments in relation to it. - RA research court cases listed by prior RA - RA started review of court cases listed in rebuttal
2/11/10	O	4,2	4-P 4-R	<ul style="list-style-type: none"> - RA kept reviewing court cases - RA received call from TP saying he will be at home for a little while or call the cell phone - RA called TP back - TP said he was at the auto dealership tying up some loose ends - RA told him that we had to determine first if it was a viable loan and then determined the time the debt went bad - TP said they sold the fixed assets in 1995, but the liabilities and the receivables were still in the old corporation. - TP said the docs were probably at home and that he will send them by e-mail on Monday - RA informed the TP that documents sent through e-mail may be intercepted by others. - TP said he is not concerned since it does not have his TIN on it, but he appreciates the concern.
2/22/2010	O	2		<ul style="list-style-type: none"> - TP called and said he had the documents, but said that he wanted to talk to [REDACTED] first. - TP said he will bring the documents and that he would prefer Thursday any time between 10-2 - TP left his number - RA said he will ask, but informed TP that [REDACTED] was on a detail. - RA called TP back and TP said he would really like to talk to [REDACTED] - RA said he will pass his number along and [REDACTED] maybe able to call him

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Date (mmdyyy)	LOC	CONT	Time on Activity	Remarks, Notes, Actions Taken
				tomorrow.
2/23/2010	O	4		<ul style="list-style-type: none"> - RA talked to [REDACTED] and GM about if they called TP - GM said he will be calling TP when he has time
2/24/10	O	2	2-P	<ul style="list-style-type: none"> - RA called TP to inform him that [REDACTED] (GM) will be giving the taxpayer a call - TP called back and said he would like to meet both GM and RA on Friday - TP said Thursday he is busy - RA found that conference room was available 3/11/10 at the earliest and e-mailed GM to see if it was fine - GM said for RA to set up a time. - RA called TP and informed him that 3/11 would be the earliest date to meet. - RA and TP set it for 11:00 AM - TP asked if he could drop off the docs with RA on 2/26/10 at 11:00 AM and discuss the issues. - RA and TP set up the time - RA explained how to get through and later told TP to call RA on his cell phone when he gets here. - RA said he will try to get a room on the 10th floor.
2/25/10	O	2		<ul style="list-style-type: none"> - The taxpayer called and said the he could not make the appointment - TP asked to reschedule - RA said it was okay, but RA has to check calendar first. - TP called back to firm appointment - RA called TP and set appointment for Tuesday 3/2/2010 at 1:30 PM - RA called TP back and set appointment for Monday 3/1/2010 at 1:30 PM, TP agreed.
3/1/2010	O	1	4-P	<ul style="list-style-type: none"> - RA met with taxpayer and received documents - Taxpayer went over timelines and documents that he had provided to show RA the "eerie timing" of what had been happening. - Taxpayer had provided some information regarding the LIFO valuations to add back to the assets of the years where loans were made. - Taxpayer had expressed that he believes that the thin capitalization issues isn't an issue and that he believes that the timing of the bad debt would be 2005 and not 1995' - TP explained that since the company still had income until the IRS examination and since the company stopped having income in 2005 that that is when the bad debt should have been. - TP also explained that he was taking the conservative approach in 1995 because he would have taken the bad debt in that year, which would have helped him - Also stated that the IRS did not audit those years and if they would have told him then, instead of now when the refund statute had expired, he would have changed it. - RA explained that if the taxpayer should not have made the payments to the old corporation since he was technically hired as the president because of his experience and knowledge and hiring a consulting firm for the same thing they would get from the taxpayer does not make business sense. - TP said he wasn't arguing that point. - RA also explained that if the taxpayer had done it correctly and not done the payments to the old corporation then the taxpayer would not have the issue with the bad debt being created in 1995.

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Handwritten initials: RA

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				<ul style="list-style-type: none"> - Taxpayer also confirmed that most of the fixed assets and inventory was sold to the new corporation in 1995 meaning the taxpayer would have liabilities over assets in 1995 meaning the old corporation was insolvent thereby triggering a bad debt. - Taxpayer and RA signed the confirmation that the items were copies for the RA's files (written by the taxpayer) and that the RA received the copies (typed on the paper) and was dated and signed by both parties. - RA made copy for his GM
3/5/10			2-P	<ul style="list-style-type: none"> - RA started review of taxpayer documents and "Operating Report" sheets in the taxpayers file. - RA reviewed LIFO valuation numbers and adjustments to assets.
3/9/10	O	4	3-R	<ul style="list-style-type: none"> - RA reviewed documents received 3/1/2010 - RA looked up LIFO valuation method for inventory.
3/10/10	O	4		<ul style="list-style-type: none"> - RA continued research on LIFO valuation - RA called taxpayer about rebuttal and how RA needs to see the loan documents, and the returns to proof that TP was expecting to get paid back - RA asked about the loans and how they worked. - Rep said that generally with other banks there are 2 types of loans, 1 used to form capital assets that has a maturity date and has an interest payment schedule and another revolving loan used for flooring inventory. - The flooring inventory is secured against the inventory and is set at a cap - TP said his loans were a combination of flooring and capital improvements/ construction. - TP said it was not secured against the vehicles like the revolving loan and did not have a maturity date like the capital loans - TP said in essence he was transferring money to himself and no formal documents were made. - TP also verified that the assets from the old corporation were purchased by the new corporation in 1995. - TP said the loans were about \$30,000 or \$50,000 and there were a few of them that totaled about \$600,000 - TP says there are promissory notes and that he had talked to his preparer and Motors holding about the consulting. - TP said he used the income from the old corporation assets to invest in the new corporation. - RA said he needed the loans and the returns for the corporation to see if thin capitalization was an issue and said RA can see repayments in 2005 - RA called back and asked for repayment schedules and cancelled checks if TP has them showing repayment of the years after the loan to help determine some of the issues. - TP says there was no repayment schedule - TP said flooring does not have a repayment schedule, but a payment schedule of interest and repayments of the principle are done when the car is sold - TP said he did not have payment schedules with his corporation and the amounts of principle and interest were due on demand. - TP said often time he would reinvest the interest back into the company and make loans and promissory notes from there - TP said the interest payments were sporadic, but he would be issued 1099's for interest per year. - Manager said that Manager will not be in so RA has to reschedule appointment

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3/11/10	O	2		<ul style="list-style-type: none"> - RA called TP and rescheduled Manager's conference for 3/19/2010 in POD in conference room - RA also set a tentative schedule with TP for 3/12/10 to review documents and for RA to better assess the situation - RA said that hopefully if we can get it resolved at the RA level then we will not need to waste the manager's time. - Set appointment for 9:00 AM at 39639 Balintine Dr, Newark, CA - TP said that the documents were there and that it was the old dealership. - RA also said he may need Monday as well if RA does not finish his review. - TP said to set it tentative for now, but if he doesn't call back then he will consider it confirmed. - TP has not called back.
3/12/10	T	1	8-P	<ul style="list-style-type: none"> - RA met with TP at TP's dealership that had closed in November of 09. - TP and RA discussed the loans and the repayment - TP explained how in 1982 he had a similar loan he made and paid by in 1984 - TP stated that he found some of the loans, but was unable to find all of them, which maybe in he files or may not have been made - TP said that he made various loans to the old corporation for capital expenditures and for flooring. - Loans that were made to the old corporation from the taxpayer that were for Subaru capital expenditures and for the Fremont Auto mall project were total to be about \$335,000 which expenses were written off of the books before the examination. - The other amounts of loans were for flooring where the taxpayer had determined he could get a better rate of return from than if he put it in a CD - The taxpayer had also stated that the Motor's Holding Board of Director's knew full well that there was a consulting agreement with the taxpayer's old corporation and even agreed to increase the compensation in November of 1999. - The taxpayer says he has always taken a salary from the new corporation which was pretty stable at \$72,000 a year. - TP informed RA of what he suspects is happening and how there are too many "eerie coincidences" to not be a "malicious act" perpetrated by GM to get rid of the taxpayer. - Taxpayer provided copies of the financial statements prepare by his dealership and sent to GM, loan documents that he could find and an "Action by Board of Directors by Written Consent" stating the increase in consulting fees. - RA and TP discussed the timing of the bad debt. TP says that he can not see how anyone would think that the time would be anything, but 2005 - TP expressed that the old corporation had an income until the IRS had decided to disallow the income from the new corporation to the old one. - TP agreed with the adjustment made on the corporate audit to disallow the income on the old corporation and disallow the expense of the new one. - TP does not agree that the bad debt should be taken in 1995. The taxpayer had given an example of embezzlement. - TP said the income is taxable like the amount of money given to the old corporation was taxable. - TP said if he tried to take the bad debt when the company was showing

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				<p>income the IRS would have disallowed it.</p> <ul style="list-style-type: none"> - TP said the he was taking the conservative approach and would have benefited more in 1995 to take the bad debt deduction. - TP said it was due to Motor's Holding that he had to start a new entity and that if they would have allowed TP to keep running under his old Corporation then he would have been able to take NOL's he was entitled to. - RA explained that the old corporations was insolvent in 1995 meaning he would not be able to pay off the debts to the taxpayer without the consulting income, which he should not have had. - RA set up in an office in the dealership and reviewed the documents. - RA reviewed loans and found that the notes were on demand and some did not write out the amount payable, just the amount lent and the date lent. - Interest is GMAC rates and there is not fixed maturity date or fixed payment schedule (it just says on demand). The note is secured by a "Note" - All notes provided was signed by Donald Signer Pres. Barrowed to Don Signer Buick, Inc., and barrowed from Donald R. Signer. - TP had provided a repayment of one of a loan in Nov 1988 paid in October of 91 - TP had also provided a copy of the cancelled check in 1988 for \$166,000 - TP also provided 1099-Int issued to himself from the old corporation from 1988 to 1992 - TP and RA went over the amount of loans he had and showed it to RA - TP said that he went into loans expecting to get paid back
3/18/2010	O	4	3-P 3-R	<ul style="list-style-type: none"> - RA continued with research of court cases and facts - RA updated lead sheets for RA position with court cases. - RA researched IRM for preparing claims 4.10.8.9
3/19/2010	O	4, 3	8-P	<ul style="list-style-type: none"> - RA called TP and rescheduled appointment to 1:00 PM and manager was fine with it. - RA called [REDACTED] and left a message - Met with TP and Acting Manager in office 1:00 PM - Discussed case and process of the case - AGM discussed the processes of an audit, how it came, how it will close - AGM discussed appeal rights, FOI rights, and rights to discuss issues with TIGTA - AGM and RA asked more questions regarding the case, the loans, and the timing of the bad debt - AGM made clear that the taxpayer's position at this time is the rebuttal prepared by his S-Corporation Rep. - AGM and RA set a day to discuss the audit plan. - RA wrote up 125-2 interview notes.
3/24/10	O	4	8-R	<ul style="list-style-type: none"> - RA received an e-mail from [REDACTED] saying 2006 is also a claim and that RA should change the ASED 10/AA/2010 - RA finished up 125-2 and incorporated acting manager's comments - RA checked for 2006 mention of a claim, but did not see one. - RA called [REDACTED] back to ask her. - RA left a message on the VM - RA filled out blue card for 2003 tax year for related S-Corp adjustments resulting in the TP's 2005 deduction - TP individual examined for 2003 & 2004 - RA turned in blue card for 2003 and 2004 individual and S-Corp years.

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Date (mmddyyyy)	LOC	CONT	Time on Activity	Remarks, Notes, Actions Taken
				- RA researched court cases of RA and TP.
3/25/10	O	4	3-2006	- Discussed 2006 return with claims people saying there was no claim for 2006, RA received the 2006 file. - RA found that the 2006 return was adjusted due to 2005 disallowance and discussed with Rep about the 2006 year.
3/31/10	O	2	2-R	- RA discussed case with Manager and talked RA's discussion with [REDACTED] - RA and AGM determined that a 1040X is to be filed to ensure that the NOL is protected in 2006. - RA called TP and informed him of the 1040X to protect the NOL - RA informed that TP could pull 1040X from IRS website - RA said TP can prepare and RA can review for correctness. - TP said that he may have it done by 4/2/10 or 4/5/10
4/5/10	O	4,2	3-P	- RA received call from TP asking about where to start with the 1040X - RA said that he would have time to go over it with TP - RA asked if TP was busy today - TP said he had to go to dealership in a little bit. - RA and TP scheduled time to discuss at 2:00 PM later today - RA pulled up 1040 X and instructions. - RA did research on how the amounts should look. - TP called at about 2:00 PM and left a message saying he is leaving the dealership soon and will call RA later this afternoon and if TP misses RA then RA and TP can schedule another time to talk. - RA continued with his review of 1040X and how the 2006 year should look. - RA reviewed 2005 tax year and 1040 X to see how 2006 should be - 1040X form has changed since TP had filed 1040X for 2005 - RA is looking for what to put in payment and refund lines. - RA called TP and informed him - RA and TP agreed to discuss the 1040X tomorrow.
4/6/10	O	4	3-R	- RA continued working on 1040X and determined what the numbers should be and where they come from - RA will advise TP to double check how to compute, what to attach, and the correctness with Customer Service since RA can not give tax advice. - Went over a few questions TP had about how RAR effected 1040X - RA explained that it doesn't on the revised form. It takes into account the payments TP made and the tax amounts TP claims to be correct. - RA pulled up the rest of TP's court case references. - RA called TP to see if TP had any questions - TP said he appreciated the call and that his attentions were on GM. - RA informed TP that RA will be in after 12 on Thursday and all day Friday.
4/8/10	O	2,3	3-R	- Received call from TP about 1040X - TP e-mailed 1040X to have RA review numbers - RA reviewed and determined corrections needed to be made.
4/9/10	O	2.		- RA called TP about changes. - RA told TP that he should double check with customer service to make sure it was filled out correctly because Ra has not filled out one of these forms before - RA also said it might be a good ideal to look at the instructions again. - RA told TP that he should file it with RA and RA will send it to where it needs to go, but keep TP informed if there are other action TP needs to take

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				<ul style="list-style-type: none"> - TP asked about status of cases and RA said that there are a lot of court cases to look at.
4/12/10	O	2, 3		<ul style="list-style-type: none"> - Received call from [REDACTED] said that [REDACTED] [916-[REDACTED]] called about 2006 NOL carry back from 2008 - RA called her and she asked if Ra was doing anything with that. RA said he is working 2005 and is trying to get a claim for 2006 so RA can work on it. - Taxpayer advocate said she is getting a copy of the 1045 from the TP - RA said he will request it from TP as well. - RA called to get a copy of the 1045 and left a message for TP to call back.
4/15/10	O	2		<ul style="list-style-type: none"> - RA received documents in his mail box - RA received call from TP about documents, TP says there are 2 envelopes and that there is a 13oz limit for those envelopes - RA said he will try to get to them tomorrow and call Rep after.
4/16/10	O	4	8 -R	<ul style="list-style-type: none"> - RA opened up packages from TP - RA found a 1040X for 2006 with original signature and a copy of 1045 from TP. - RA checked with IMFOLT to make sure nothing has already posted. - On 2006 IMFOLT seem an Exam Indicator was added 11/5/09 before RA received the case by EG 1976 - RA must talk to [REDACTED] in order to get her take on it. - RA will find out what group is 1976 meaning there could be the original 1045 out there - RA also noticed that case was closed in late July where adjustments were signed and agreed. - The 1045 was filed after in early August using the original return numbers and not the adjusted numbers from the Report. (does this invalidate claim) - Ra Called TP about the reviewing documents - RA said he is trying to get in contact with the claims person to ask about 1045's and the 1040X - RA said he would be comparing the 2005 1040X with the 2006 1040X to make sure the attachments are correct. - 1045 must be filed within 1 year from NOL arose (per F1045 instructions) - 1045 for 2008 arose 12/31/2008 meaning 1045 must be filed by 12/31/2009, according to signature dates 1045 was signed 8/24/09, TP says he had sent the form over six months ago which would also be with in the time frame. - Reviewed 2008 return attached to 1045 for CB and noticed a large amount is from the Sch E losses for sale of business. - RA looked up IRC 1231 due to a reference to a loss on the 2008 return attached to the 1045 for 2006 - Ra called [REDACTED] to some guidance on what to do with 1045 and 1040X - [REDACTED] met with RA and discussed the situation - [REDACTED] said she will ask her boss. - RA pulled up a TXMODA to show here the recent transactions. - [REDACTED] brought [REDACTED] to discuss the 1040X and 1045. - RA informed her of the situation asked what Ra should do. - [REDACTED] says to ask TP if he has proof that he had sent the 1045 since it did not show on our records, to process the form for a TC 971 posting with the appropriate action code to post that we have a claim. - [REDACTED] says RA does not have to send the claim anywhere until RA closes

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				<ul style="list-style-type: none"> - case and that claim should be protected under the AA alpha codes. - RA asked about the 1045 and how if RA were to process the 1045 it may not go through since it was after the allotted time, but if TP did file it when he said he did then it would be timely. - ██████ said not to worry about the statute for the NOL carry back since it is protected by the 2008 statute since the NOL occurred in 2008, but the audit 2008 if RA needs to, to determine if NOL carried back to 2006 was correct. - ██████ said that RA can look under claims to see what form to fill out and where to process it. - RA reviewed IRM for form and location. - RA called since he could not find the IRM regarding claims - ██████ had to leave so she had some one else call RA - RA was told Form 4844 TC 971 action code 013 - RA pulled up the form and was not sure how to fill it out. - RA decided to call the fort unit in Memphis. - RA called back and asked if it was F 3177, he said he was not sure since she turned off her computer and left for a medical appointment - RA faxed the FORT Unit in Memphis and proceeded with the 3177 form with a 971 action code 013 posting. - RA prepared 5348 for AA statute and claim amount - RA prepared 5345-D for 2008 year - Discussed case with manager and manager said to come back when RA has determined there is no audit potential for 2006
4/21/10	O	4,2	7-R	<ul style="list-style-type: none"> - RA received a call from TP on 4/20/10 to call back - RA called back 4/21/10 - TP picked up and asked about the documents received by RA - RA told him that 1040X was received for 2006, but RA asked if TP has any record of sending the 1045 - TP said that he had talked to Ms. ██████ ID # ██████ Mr. ██████ and ██████ regarding the 1045. - Ms. ██████ had said that the 1045 is handled by a more specialized group, but Mr. ██████ had stated that it was received 2/23/10 and that it takes 60 days to process. - And ██████ confirmed it was under examination. - TP said he had never gotten a payment. - RA said he will check with the IMFOLT and TXMOD and call ██████ if RA can not find it - TP asked about thin capitalization, TP said former RA was basing it off of 2005 financials and not the year when loans were issued. - RA said that it maybe because they were demand loans and if the company is not doing well TP should have pulled out of loans. - TP said generally banks review financials when they approve loans. - RA said it make sense. - RA said he will get back to TP after he researches documents - RA try to explain what the scenario would be if 1045 was not received, but TP said that 3 people had confirmed that it was received. - RA said they may have gotten confused with the AMDISA for 2006 that RA had, but that RA will review. - RA check documents and did not notice a 2/23/10 while on the phone with TP, RA printed out 2006 & 2008 TXMODA and IMFOLT - TP gave case # of ██████ - RA looked up TC postings and postings in process on the IMFOLT and

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Date (mmddyyyy)	LOC	CONT	Time on Activity	Remarks, Notes, Actions Taken
				<ul style="list-style-type: none"> - TXMODA, but could not find any reference of a 1045 - RA called [redacted] at 916-[redacted] - RA asked about 1045 and how they would be able to find record of it, [redacted] said she would find out and put RA on hold. - [redacted] said they used IMFOL, RA asked if there was a certain definer, RA was put on hold again. - RA was told that they got the case by TP calling and saying he filed a 1045 6 months ago and did not actually check it - RA called TP and TP said that it was [redacted] that told him it was received - RA asked for first name, but TP did not have it, TP also did not have the correct spelling of the name. - RA looked for name on directory and address book, but no such name exists. - RA called [redacted] about 1045 and asked how RA will find it being filed. - [redacted] says she just knows of the IMFOLT and TXMOD, she said RA should try the Fresno Service center - RA found a number and tried calling [redacted] at 559-[redacted] got VM saying to call 559-[redacted] for a quicker response. - Admin assistant was able to transfer RA to [redacted] at 559-[redacted], RA left a message for her to call back. - RA received a call from [redacted] and discussed the situation, [redacted] gave RA number to her lead [redacted] 559-[redacted] - [redacted] called back and said she could not find any indication of 1045 being filled. - [redacted] also reviewed some notes from people that TP had talked to and said that TP had talked to [redacted] on 5/8/09 and [redacted] on 4/5/10 - RA called TP to inform him of what happened. - TP asked if Ra followed up with [redacted] where she got her information from regarding the 2/23/10 date. - RA said that he will ask after he gets a response from [redacted] - [redacted] e-mailed back saying she has no idea where TP had retrieved his information from.
5/4/10	O	2	2-2006	<ul style="list-style-type: none"> - RA called [redacted] about 1045 since TP said she confirmed that they got it. - [redacted] was not available. - RA continued some research on court cases.
5/7/10	O	2		<ul style="list-style-type: none"> - Ra received a call from TP about progress of the case - RA told TP that he was waiting for 2003 and 2004 files, but will hopefully do all the research before it is received to expedite the exam process - RA said he will dedicate 5/20 to TP file and call TP at end of day to inform TP of progress.
5/20/10	O	2	4-R	<ul style="list-style-type: none"> - RA called TP and informed him that RA will not be able to work on the case due to other cases and being backed up - RA said that he did receive the 2003 and 2004 audit files and will hopefully be able to make a better determination from that. - RA said that he will try to set time to work on the case 5/26/10 and anytime before then if RA can. - TP said that he had talked to the Taxpayer advocate and they were going to mail something to RA. - RA said he never got anything

CONT = Type of Contact 1. Field Visit 2. Telephone 3. Correspondence 4. Other (explain in remarks)

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Workpaper#: 100-1.11

6/13/10

Date (mmddyyyy)	LOC	CONT	Time on Activity	Remarks, Notes, Actions Taken
5/26/10	O	2,4	2-R	<ul style="list-style-type: none"> - TP said they said they would mail out and RA should have received it by now. - Ra continued research, RA called TP and informed him that RA will get back to him by end of business Friday if RA does not have appointment or End of business Tuesday since Monday is a holiday. - RA got a call from TP saying that he was at a rotary meeting - TP said he hasn't sent out the TIGTA letter yet - RA explained that he has items that he has to look at ant TP and RA set goals to get determination by Friday or Tuesday and closing to Manager on 6/9/10 - RA explained that the 2006 is being held up by the 2008 NOL carry back and RA may have to review documents to determine the actual loss of the 2008 NOL. - TP said that he is upset with the amount of time it is taking and requested a conference call with Manager and RA this Friday about how nothing was being done. - TP asked RA to send an e-mail to Manager requesting a conference call - RA e-mail Manager and TP about conference call. - RA continued research on case
				<ul style="list-style-type: none"> - Based on Fact, not legality. Not reasonable for Corp to pay old corp for service TP was providing. Only purpose seems to let TP take his deductions. No a reasonable or business reason for income to the old corporation. Form of transactions where old corp gets paid by new corp and old corp pays off debt to TP, but substance is that new corp is just allowing TP to take lossess/ pay TP without taxing it for services he would already be providing. - Simple facts. Corp had money, money paid TP for loans, loans were stopped being repaid in 2005 after the examination. - Loans based on intent on Intent of Taxpayer, interest was reported, profit motive apparent, - IF it was for knowledge it would be considered intagiabale or good will amortized over a period of time, but paid in full. - Curry v. Commissioner, 1941 U.S App. - allowing deductions of bad debts "ascertained to be worthless and charged off within the taxable year" as meaning that worthless debts in order to be deductible must be charged off whenever the taxpayer either "ascertained", "or as a reasonable person should have ascertained, that these debts were worthless". Such a rule would involve an objective and not a subjective test in respect to ascertainment by the taxpayer, while our most recent decisions in <u>Moore v. Commissioner, 2 Cir., 101 F.2d 704,</u> <p>CCH-EXP, TAX RESEARCH CONSULTANT, CONSOL: 57,056 Substance Versus Form Doctrine</p> <ul style="list-style-type: none"> - The substance-over-form doctrine provides that a transaction's substance, rather than its advertised form, controls the transaction's tax consequences. The realities and substance of the events govern the tax consequences rather than formalities.

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Workpaper#: 100-1.12

11/2/10

Date (mmddyyyy)	LOC	CONT	Time on Activity	Remarks, Notes, Actions Taken
5/28/10	O	2,4	8-R	<ul style="list-style-type: none"> - RA met with manager about possible conference call dates and additional places to get information. - RA continued research with Tax Management Portfolio's - RA arranged a meeting on 6/11/10 to discuss returns RA has projected to have ready by 6/9/10 and determination figured by 5/28/10 or 6/1/10. - RA called Rep and established the times for the appointment - RA researched Bad Debts, Losses, Worthlessness and reviewed the facts of the case.
			73 hours	<ul style="list-style-type: none"> - Since 3/1/10 apt.
6/1/2010			2-R	<ul style="list-style-type: none"> - Received related year files in mail. - RA made photo copies and looked up IRM on how to send them back to filing. - RA sent cases requested for review back to filing by closing out under IRM 4.4.1-15 procedures.
6/11/10	O	1, 4	4-R	<ul style="list-style-type: none"> - Met with TP and AGM about issues. RA explained to TP about the issues out standing. - Loss from 1985 in retained earning and positive in 1987 - Equity Line,
6/15/2010	T,O	1,4	8-R	<ul style="list-style-type: none"> - RA met with TP at auto dealership in Newark - TP provided Social Security statement and tax returns for personal 1040 for 1986 through 1990 missing the 1987 - TP also had return for 2003 Corporate 1120 return and the amendment Rep had made - RA found that copies provided to RA only had first 2 pages - RA asked for 1040 other pages - TP provided and RA made notation of income amounts where they came from on a spread sheet. - RA questioned that the Social security statement did not match the wages on the return. - TP had explained that there must have been a cap that was steadily raising - TP said his income was constant at about \$60,000 until about 1988 (can not determine if it started in 87 or 88 since we're missing 1987 return) because the dealership was following on some hard times - TP took a pay cut, but did not cut anyone elses pay. - RA reviewed and pull relevant court cases and determined how each applies.
6/21/10			2-R	<ul style="list-style-type: none"> - RA started writing up lead sheets on position and how court cases cited relates to the case for bad debt.
7/7/10	O	4		<ul style="list-style-type: none"> - RA reviewed CCH for dominant motive. RA must determine through wages, investment and other sources of income whether the motive was to protect his job or investment.
7/20/10			4-P	<ul style="list-style-type: none"> - RA concluded that the amounts for loans were business bad debts and that the timing was 2005 when the Corp did not have the ability to pay. - RA prepared lead sheets and indexed work papers.
7/27/10	O	4, 2	4-P	<ul style="list-style-type: none"> - Received a call from TP on VM on Friday and again on Monday about getting a response for the report RA said he would give to the Manager - TP said he was being too nice and has reached "the end of his rope" - RA called back and informed TP that Manager wants RA to do more research and write up the lead sheet better. - RA called back TPA and left a message regarding the status of the case

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Workpaper#: 100-1.13

2
6/27/10

Date (mmddyyyy)	LOC	CONT	Time on Activity	Remarks, Notes, Actions Taken
				<ul style="list-style-type: none"> - RA said that he will be trying to close out 05 for manager's review today and start work on 2006 - RA left name and number for TPA to call back. - AGM said to provide him with a lead sheet with Government's position. - RA wrote up lead sheets and provided it to AGM for review
Total Hours			148	-
Total Hours			148	-
7/28/10	O	4		<div style="border: 1px solid black; height: 100px; width: 100%;"></div>
8/4/10	O	4,2		
8/5/10	O	2,3		<ul style="list-style-type: none"> - RA called TP and informed him that the timing was the issue and that based on the facts we must disallow the claim. - RA told TP that he has the right to go to appeals and have the case reviewed there. - TP called and asked for RA's write up - RA said that he had not finished writing up the position where the timing was disallowed, but that the one that would be faxed was the one that was when RA had not considered all the facts behind the timing - TP said that was fine. - RA faxed it to 510-██████████ and TP said he will have the faxed switched to that number.
8/9/10	T	1	8-P	<ul style="list-style-type: none"> - C-Corp in 1995 to an S-Corp in beginning in 2001 - Written off 160,000 - Written off Saab and Subaru - Sued GM in 2007 - Investment became worthless and was written off. - Knowledge of the consulting agreement by preferred stock holders - Perfect equity, 25 years of perfect records. - Bad debt could have been recognized in 1995 in absence of a consulting agreement. Because there was an agreement between C and S and C corp had income, it became a bad debt when the business had to stop. - TP believes New corp wrote check for used cars. - RA and AGM met with TP. - TP went through story with AGM and RA about GM and eerie co-incidences with IRS audit files - AGM explained the position that the business had essentially went out of business in 1995 and that would be the date when the bad debt should have been deducted. - The TP said that he believes that the deduction could have happened in

5)

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Date (mmddyyyy)	LOC	CONT	Time on Activity	Remarks, Notes, Actions Taken
				1995, but that the triggering event was 2005. TP argues that the income for the C-Corp had stopped in 2005 due to the IRS examination regarding the disallowance of the consulting agreement. - RA, AGM and TP had set by 2 week from today 8/23/10 that RA will have RAR, write up and conclusion to TP and something by the end of the week to have to AGM to read.
8/10/10	O	4	3-P	- Discussed with AGM about areas for where to research issues and resources he uses. - RA looked up the definition of worthlessness and timing in west law and court cases in lexis. - RA found a couple writings analyzing the fact of worthlessness and the timing and reviewed them to the facts of the case. - RA found areas and types of facts that would be relevant to the case such as ascertainment of worthlessness - RA created lead sheets and AGM reviewed.
8/18/10	O	4	4-p	- AGM advised RA to restructure the lay out so that it would be easier to read. - RA included specific citations for the lead sheets and reorganized the lead sheets to make it more readable.
8/19/10	O	4	8-p	- RA referenced lead sheets and restructured so that there were three separate lead sheets (500-502) that explained the 401 lead sheet position. - RA tried to put it in bullet point format as per AGM's suggestion to make it easier to read. - RA had AGM review.
8/25/10	O	2		- AGM and RA set phone conference with TAS [REDACTED] and [REDACTED] - RA and AGM discussed case and the problems with the 1045 - AGM and RA explained that we have no record of receiving it and that TAS would have to go through campus, because campus would issue the refund first before an examination - TAS said that they would try to get the 2008 return that is supposed to have the 1045 attached - TAS asked RA if he could call them before it closes. - RA said he will.
8/30/10	O	4, 3		- RA sent RAR (including 866A & Lead sheets) with Letter 569, Form 2297, and Form 3363 with pub 3498.
9/8/10	O	2		- RA received a VM from TP and TP asked Ra to call him back
9/9/10	O	4,2		- RA called and told him about the discussion with TAS and how that are going to get the 2008 return to verify if the 1045 was attached - RA informed RA that he will call TAS after receiving protest from TP and ask about the status of the 1045. - RA said he will then call TP to notify that he is closing the case and the status of the 1045 - TP said his dealership had flooded and that he has to deal with that - TP said that it was his understanding through [REDACTED] audit, [REDACTED] involvement and RA's finding that the timing was fine. - TP said that with the Rep's he talked to they said the timing should have been what TP had stated it as. - TP and RA agreed that TP would have the protest to RA by the end of the next week (9/17/10).

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Workpaper#: 100-1.15

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Notes to Examining Officer's Activity Record, added by Don Signer

- I redacted (blocked out) names throughout the Activity Record
- Some areas of the Record were redacted by the IRS Disclosure Specialist prior to furnishing me the document. Affected dates in the Record are 1/26/10, 7/28/10, and 8/4/10.
- Acronyms are used in various entries, some of which are defined as follows:
 - RA: Revenue Agent
 - TP: Taxpayer
 - POA: Power of Attorney
 - F1045: IRS Form 1045 (Loss carryback)
 - GM: Group Manager in some cases, General Motors in others
 - AGM: Acting Group Manager
 - NOL: Net Operating Loss
 - TAS: Taxpayer Advocate Service
 - TPA: Taxpayer Advocate
- Handwritten numbers at the bottom of each page are the number of Revenue Agent hours recorded on each page in the "Time on Activity" column, added to the accumulated hours to date. The numbers were there when I received the document.