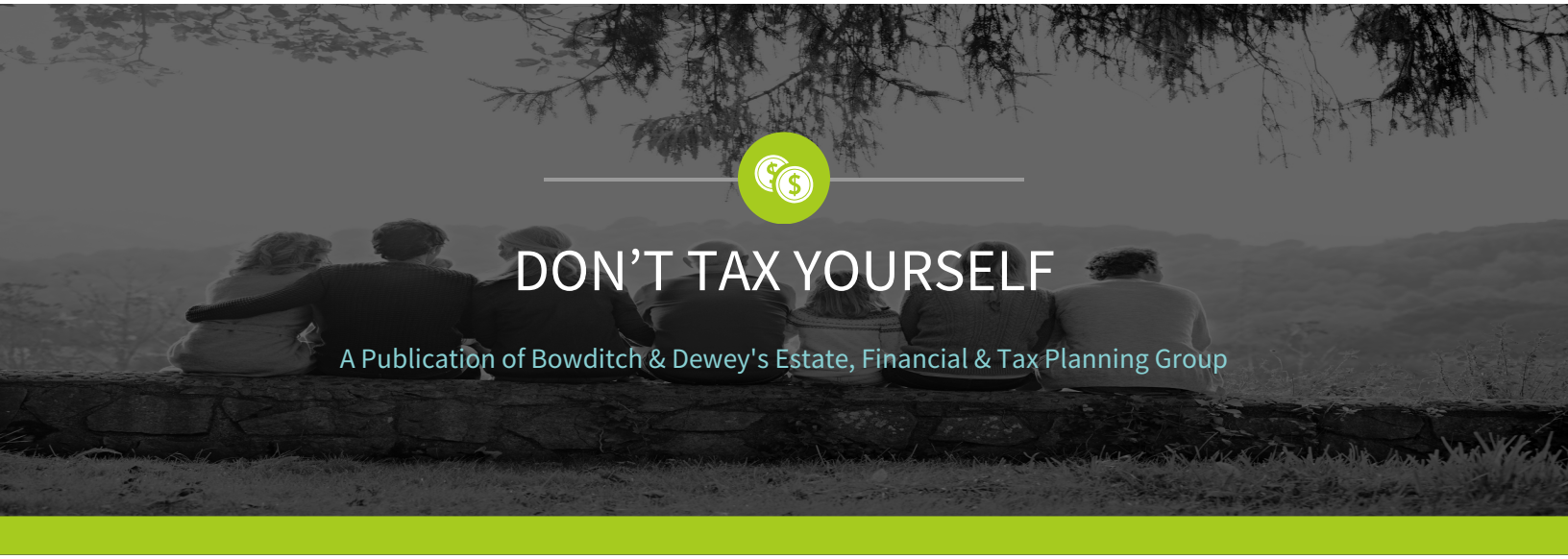

# DON'T TAX YOURSELF

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## IRS Discusses New IRS Return Examination Campaigns

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In remarks at the NYU Tax Controversy Forum in June, the IRS discussed two new IRS return examination campaigns. Ms. Tamera Ripperda, the commissioner of the Tax Exempt and Government Entities (TEGE) Division who previously served as the industry director for the Global High Wealth in the Large Business and International (LB&I) Division, noted that the agency is analyzing the use of private foundations for tax planning and has identified more than 1,000 private foundations that have linkages to global high-wealth enterprises. The IRS will likely examine many of these foundations.

Separately, Douglas O'Donnell, head of Large Business and International Active Campaigns (LB&I), discussed the LB&I's Tax Cuts and Jobs Act (TCJA) compliance campaign it announced on May 1, 2020. According to the IRS website, the goal of the campaign is to identify transactions, restructuring and technical issues and better understand taxpayer behavior under the new law. The treatment streams for this campaign may include examinations, soft letters, outreach, new and improved practice units and development of future issue-based campaigns.

At the NYU Conference, Mr. O'Donnell stated that the LB&I Division is going to have more flexibility to examine returns under the TCJA campaign. He noted, "This campaign is very different from campaigns in the past where we focus on a specific transaction or issue or line item. This is looking at the entirety of a return, giving examiners the authority to look beyond any specific issue. … We're asking our employees to go into returns and understand how taxpayers have implemented the TCJA. What did they actually do? Is there something about the returns that lend themselves to a greater likelihood to have one type of transaction versus another transaction? Is there something specific we can say about entities that are smaller, that have fewer controls, that are closely held? Which controls are different? There are a lot of opportunities to learn here."

O'Donnell noted that LB&I will also be looking at S corporations and partnerships. "Obviously, some of those will be controlled by high-wealth individuals, so that will touch on our global high-wealth program as well, and we'll understand better the linkages to what those individuals may be up to," said O'Donnell. "We're going to be collecting this examination information and using a very robust feedback mechanism to do this. We put in place a number of

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subject matter experts to keep in touch with the teams to understand what they are seeing."

With the new partnership audit rules put in place by the Bipartisan Budget Act of 2015, that went into effect on January 1, 2018, the IRS now has more flexibility for partnership audits. The new rules now allow the IRS to assess and collect taxes during an audit at the partnership level. In addition, under the new rules, as a default, individual partners may not participate in the audit, nor may an individual partner appeal the audit findings or assessment. Partnerships with fewer than 100 (individual or corporate) partners can elect out of these new rules under IRC Section 6221(b), but that election must be made each year. Be sure to discuss this election with your tax adviser each year before your return is filed. A complete list of all active current IRS campaigns can be found on their website.

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