



John L. Marien | Accountant/Enrolled Agent

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John L. Marien serves as a tax and financial accounting analyst/consultant and is currently an Enrolled Agent authorized to practice before the Internal Revenue Service. Mr. Marien has a Masters Degree in Business Administration from the State University of New York at Buffalo, where he graduated at the top of his class in the accounting department.

Mr. Marien retired from the IRS in September 2008 after over 29 years of service as a Large and Mid-Sized Business Division (LMSB) Revenue Agent. For his last 15 years at the IRS, Mr. Marien was the national Technical Advisor for Internal Revenue Code Sections 419 and 419A and VEBA's (Voluntary Employees' Beneficiary Associations) where he advised LMSB case managers and revenue agents in the coordinated examination program. Mr. Marien was also a senior member of the Small Business and Self-Employed (SBSE) Division's Section 419 Issue Management Team (IMT) where he provided advice and assistance to the IMT as well as SBSE managers and revenue agents. Mr. Marien earned numerous awards and commendations for his accomplishments in this area, including two Assistant Commissioner (Examination) awards and a Commissioner's award in 2008.

During his tenure as Technical Advisor, Mr. Marien played a key role in developing the IRS's positions under sections 419 and 419A. Mr. Marien was the principal author of numerous Audit Technique Guides used by the IRS to provide guidance in the 419 area. Mr. Marien was also the lead instructor on numerous IRS training classes in this area as well as a speaker at conferences held by the American Bar Association and other organizations.

Mr. Marien also played a significant role in the development of the Treasury Regulations and other IRS guidance published regarding section 419A(f)(6) and was a member of all of the IRS's Tax Court Section 419 litigation teams – e.g., *General Signal Corp. v. Comm.*, 103 T.C. 216 (1994), *affd.* 142 F.3d 546 (2nd Cir. 1998); *Parker-Hannifin Corp. v. Comm.*, T.C. Memo. 1996-337, *affd.* in part, *revd.* in part 139 F.3d 1090 (6th Cir. 1998);

CAPABILITIES

Tax Controversy

- Audit Representation
- International Tax Controversy
- Residency & Domicile
- Tax Collection Defense
- Tax Litigation
- White Collar Criminal Tax Defense

Tax Planning

Square D Co. v. Comm., 109 T.C. 200 (1997); *Connecticut Mutual Life Insurance Co. v. Comm.*; 106 T.C. 445 (1996); *Wells Fargo & Co. v. Comm.*, 120 T.C. 69 (2003); *Booth v. Comm.*, 108 T.C. 524 (1997); *Neonatology Assoc., PA. v. Comm.*, 115 T.C. 43 (2000), aff'd. 299 F.3d 221 (3rd Cir. 2002); *VR DeAngelis, MDPC and RT Domingo, MDPC v. Comm.*, T.C. Memo 2007-360, aff'd. 574 F.3d 789 (2009).

Prior to his involvement in the Section 419 area, Mr. Marien invested five years working with the U.S. Department of Justice as a Summary Witness in a series of criminal tax trials in the Federal District Courts in Northern and Western New York. These included the seminal tax protester case of *United States v. Rowlee*, 899 F.2d 1275 (2nd Cir. 1990), which resulted in convictions for conspiracy, aiding and assisting the submission of false documents and mail fraud and *United States v. Louis Fumerelle and Richard ("Rocky") Fumerelle*, which resulted in convictions for filing false tax returns and conspiring to defraud the government.

At Lippes Mathias LLP, Mr. Marien concentrated on cases involving IRS examinations U.S. Virgin Islands Economic Development Program (EDP) credits. He was a member of the defense team in the landmark case of the *United States v. James A. Aufferberg, Jr., et. al.* (Crim. No. 2007-0047 – F/B). The case was tried in Fed. Dist. Ct. for the Virgin Islands, St. Croix Division and resulted in a "not guilty" verdict for all nine defendants. The case involved over \$76 million dollars of EDP credits from 1999 through 2002. The government charged 99 counts under both U.S. and Virgin Islands statutes, including conspiracy, tax evasion, filing false tax returns, aiding and abetting, wire fraud, false statements and forfeiture.

Mr. Marien has also assisted in the litigation and resolution of numerous civil cases filed in U.S. Tax Court challenging the IRS's denial of various taxpayers' Virgin Islands residency status and their EDP related tax credits. In one of those cases, *Appleton v. Commissioner*, 140 T.C. No. 14 (2013), the Tax Court found that Mr. Appleton's income tax forms filed with the Virgin Islands Bureau of Internal Revenue (VIBIR) pursuant to the Internal Revenue Code were sufficient to begin his statute of limitations against the IRS.

EDUCATION

- University at Buffalo, State University of New York, M.B.A
- University at Buffalo, State University of New York, B.A

HONORS & AWARDS

- IRS Commissioners Award
- Two IRS Assistant Commissioner (Examination) Awards

- Numerous other I.R.S. Awards and Commendations
- Nominated for Tax Notes Today 2013 Person of the Year. Tax Analysts publishes an annual list of the individuals who have significantly influenced federal tax policy during the past year

LICENSES / ADMISSIONS

- Enrolled Agent – Internal Revenue Service