



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
Washington, DC 20224

SMALL BUSINESS / SELF-EMPLOYED DIVISION

September 15, 2016

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Impacted IRMs: 4.10.8 and 1.4.40

MEMORANDUM FOR AREA DIRECTORS, EXAMINATION – FIELD

FROM: John Caggiano */s/ John Caggiano*
Acting Director, Examination Field and Campus Policy

SUBJECT: Interim Guidance Regarding Elimination of Letters 5262, 5261, 5441, etc., and Permanent Reinstatement of Letters 915 and 1912

The purpose of this interim guidance (IG) memorandum is to permanently eliminate Letters 5262, 5261, 5441, and all similar letters. In addition, the use of Letter 915, *Letter to Transmit Examination Report*, and Letter 1912, *Follow-Up Letter Transmitting Examination Reports*, is reinstated for Office Exam cases. Please ensure this information is distributed to all affected employees within your organization.

The procedures contained in IRM 4.10.8.11, *Eligibility for Appeals Conference and Preliminary Letters (SB/SE Field and Office Examiners only)*, are permanently eliminated. Unless specifically excluded from Appeals consideration (see below), all cases are eligible for an Appeals conference as long as the taxpayer submits an adequate protest (when a formal written protest is required), or a small case request, that includes the information required in Pub 5, *Your Appeal Rights and How To Prepare a Protest If You Don't Agree*. Generally, if the taxpayer submits new information or evidence to Appeals, or raises a new issue that Examination has not considered, the case will be returned to Examination ([IRM 8.2.1.5, Returning a Case to Examination - ATE](#)).

Cases Excluded from Appeals Consideration

- Fewer than 365 days remain on the statute of limitations when the case is received in Appeals.

- Request/claim for abatement of unpaid tax ([IRM 4.10.8.7\(6\)](#), *Claims for Abatement, Audit Reconsiderations, and Supplemental Reports*) that is not an audit reconsideration (taxpayer has no judicial rights).
- Taxpayer disagrees solely on moral, religious, political, constitutional, conscientious, or similar grounds ([IRM 8.1.1.3.1](#), *No Appeals Conference or Concession on Certain Arguments*).

Issuance of 30-day Letter (240 or more days remaining on the statute of limitations)

Generally, taxpayers with 240 or more days remaining on their statute of limitations will receive the appropriate 30-day letter. This allows 30 days for the taxpayer to respond (and extend the statute if needed) and if the taxpayer fails to respond, it also ensures adequate time to close the case from the group ([IRM 4.10.8.1.4](#), *Time Frames in Closing a Case from the Group*) and provide Technical Services at least 180 days to issue the notice of deficiency.

Issuance of transmittal letters (less than 240 days remaining on the statute of limitations)

If there are fewer than 240 days remaining on the statute, examiners will continue to use the following letters to transmit an agreed report and notify the taxpayer additional time is needed on the statute for Appeals to consider their case if it is unagreed:

- Letter 5153, *Examination Report Transmittal - Statute < 240 Days (Straight Deficiency)*, or
- Letter 5153-A, *Report Transmittal - Statute < 240 days (Claim)*, or
- Letter 5153-B, *Report Transmittal - Statute < 240 days (No Change with Adjustments)*.

This guidance is **effective immediately** and will be incorporated into IRM 4.10.8, *Report Writing*, and IRM 1.4.40, *SB/SE Field and Office Examination Group Manager*, by September 15, 2018.

If you have questions, you may contact me or have a member of your staff contact Cathy Demetra, Program Manager, Examination/AUR Policy, Field Examination General Processes.

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