



# MANUAL TRANSMITTAL

Department of the Treasury  
Internal Revenue Service

8.1.1

JANUARY 9, 2024

## EFFECTIVE DATE

(01-09-2024)

## PURPOSE

- (1) This transmits revised IRM 8.1.1, Appeals Function, Appeals Operating Directives and Guidelines.

## MATERIAL CHANGES

- (1) Added new IRM 8.1.1.1, Program Scope and Objectives, and related subsections to address internal controls as required by IRM 1.11.2.2.4, Address Management and Internal Controls.
- (2) Included in new IRM 8.1.1.1.5, Related Resources, information on the Taxpayer Bill of Rights (TBOR), based on guidance from the Division Counsel/Associate Chief Counsel (National Taxpayer Advocate Program) and Branch 3 of the Associate Chief Counsel (Procedure and Administration).
- (3) Revised IRM 8.1.1.2 (formerly IRM 8.1.1.1), Accomplishing the Appeals Mission, identifying Appeals' mission per the Taxpayer First Act (TFA) and made other clarifying changes. Deleted reference to obsoleted Pub 5170, Taxpayer Bill of Rights.
- (4) Revised IRM 8.1.1.3 (formerly IRM 8.1.1.2), Appeals Delegation Orders and Policy Statements, to identify new IRM reference numbers arising from the IRS moving its servicewide policy statements and delegation orders to IRM 1.2.1 and IRM 1.2.2, respectively. Included information from IRM 1.11.3 and IRM 1.11.4 on policy statements and delegation orders, respectively.
- (5) Revised IRM 8.1.1.3.1 (formerly IRM 8.1.1.2.1), Some Exceptions to Appeals Authority, as follows:
  - a. In paragraph (1), removed "a" and "b" that relate to information removed from IRM 8.7.3, Technical Guidance and International Operations Programs.
  - b. Added language that Appeals will not consider cases where a criminal prosecution, or a recommendation for criminal prosecution, is pending for a tax-related offense based on guidance in IRM 8.7.1, Guidelines for Cases with Special Issues, and Delegation Order 8-8.
  - c. Incorporated guidance from IGM # AP-08-0922-0011, Interim Guidance for Cases in Which Taxpayers Raise Arguments Regarding the Validity of a Treasury Regulation or Procedural Validity of an IRS Notice or Revenue Procedure.
- (6) Revised IRM 8.1.1.4.2 (formerly IRM 8.1.1.3.2), No Immediate Tax Consequence Cases, as follows:
  - a. Deleted paragraph (5) regarding case transfers within Appeals. Internal Appeals case transfers for "no immediate tax consequence cases" follow the same guidelines as "immediate tax consequence" cases. Appeals' case transfer information is covered in IRM 8.6.1.3, Transfer Procedures, and is not needed in this IRM section.
  - b. Combined paragraphs (6) and (7) regarding closing instructions reportable on Form 5402, Appeals Transmittal and Case Memo, for "no immediate tax consequence cases." Revised paragraph (9), renumbered as paragraph (7), that requires providing Compliance with feedback on Appeals case decisions.
- (7) Revised IRM 8.1.1.5 (formerly IRM 8.1.1.4), Collection Cases Under Appeals Jurisdiction, to clarify that the taxpayer may raise during an equivalent hearing all of the same issues available in Collection Due Process, but can't seek judicial review of Appeals' decision for an equivalent hearing.
- (8) Changed title of IRM 8.1.1.6 (formerly IRM 8.1.1.5), Appeals Miscellaneous Responsibilities, to "Appeals Miscellaneous Duties."

- (9) Revised IRM 8.1.1.6.1 (formerly IRM 8.1.1.5.1), Feedback Procedures to Collection and Examination, paragraph (6), for clarity.
- (10) Revised IRM 8.1.1.7 (formerly IRM 8.1.1.6), Programs of Interest to Appeals, primarily due to other related IRM section revisions and reorganization.
- (11) Revised Exhibit 8.1.1-1, Common Terms Used in Appeals, by adding the acronym “ACM” and the terms “Compliance” and “Originating Function”.
- (12) Made minor editorial changes through this IRM section.

#### **EFFECT ON OTHER DOCUMENTS**

This IRM supersedes IRM 8.1.1, Appeals Operating Directives and Guidelines, dated August 23, 2016. This IRM also incorporates Interim Guidance Memorandum # AP-08-0922-0011, Interim Guidance for Cases in Which Taxpayers Raise Arguments Regarding the Validity of a Treasury Regulation or Procedural Validity of an IRS Notice or Revenue Procedure.

#### **AUDIENCE**

IRS Independent Office of Appeals

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8.1.1

Appeals Operating Directives and Guidelines

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8.1.1.1  
(01-09-2024)  
**Program Scope and Objectives**

- (1) *Purpose:* This IRM section provides information on the IRS Independent Office of Appeals (Appeals) mission, authority, operations, process, roles, and responsibilities.
- (2) *Audience:* Appeals employees
- (3) *Policy Owner:* Director, Case and Operations Support
- (4) *Program Owner:* Director, Policy, Planning, Quality and Analysis
- (5) *Contact Information:* Appeals employees should follow established procedures on *How to Contact an Analyst*. Other employees should contact the “Content Point of Contact” shown on the Product Catalog Results page for this IRM.

8.1.1.1.1  
(01-09-2024)  
**Background**

- (1) Since its establishment by the IRS in 1927, Appeals has been the administrative function within the IRS with authority to consider settlements of tax controversies and has the primary responsibility to resolve these disputes without litigation to the maximum extent possible through an administrative settlement of the matter. Since 1927, Appeals’ mission has been to resolve Federal tax controversies without litigation on a basis which is fair and impartial to both the Government and the taxpayer and in a manner that will enhance voluntary compliance and public confidence in the integrity and efficiency of the IRS.
- (2) Section 1001(a) of the IRS Restructuring and Reform Act of 1998 (RRA 1998) directed the Commissioner to ensure an independent appeals function within the IRS, including the prohibition of ex parte communications between appeals officers and other IRS employees to the extent that such communications appear to compromise the independence of the appeals officers. IRC 7803(e), added by the Taxpayer First Act of 2019 (TFA), provided that this independent appeals function will be known as the IRS Independent Office of Appeals (Appeals) and codified Appeals’ role and responsibility. TFA also codified Appeals mission as shown in IRM 8.1.1.2, Accomplishing the Appeals Mission.

8.1.1.1.2  
(01-09-2024)  
**Authority**

- (1) IRC 7803(e), Independent Office of Appeals
- (2) 26 CFR 601.106, Appeals Function
- (3) IRM 1.2.1.9, Policy Statement for the Appeals Process
- (4) IRM 1.2.2.9, Delegations of Authority for the Appeals Process

8.1.1.1.3  
(01-09-2024)  
**Responsibilities**

- (1) The Director, Case and Operations Support is the executive responsible for Appeals’ policy and procedural guidance.
- (2) The Director, Policy, Planning, Quality and Analysis (PPQA) is responsible for program oversight.

8.1.1.1.4  
(01-09-2024)  
**Terms and Acronyms**

- (1) See Exhibit 8.1.1-1, Common Terms Used in Appeals.

8.1.1.1.5  
(01-09-2024)

#### Related Resources

- (1) IRM 1.1.7, Appeals
- (2) *IRS Independent Office of Appeals intranet page*
- (3) *[www.irs.gov/appeals](https://www.irs.gov/appeals)*
- (4) The Taxpayer Bill of Rights (TBOR) lists rights that already existed in the tax code, putting them in simple language and grouping them into 10 fundamental rights. Employees are responsible for being familiar with and acting in accord with taxpayer rights. See IRC 7803(a)(3), Execution of Duties in Accord with Taxpayer Rights. For additional information about the TBOR, see <https://www.irs.gov/taxpayer-bill-of-rights>.

8.1.1.2  
(01-09-2024)

#### Accomplishing the Appeals Mission

- (1) The Appeals mission is to resolve Federal tax controversies without litigation on a basis which is fair and impartial to both the Government and the taxpayer, promotes a consistent application and interpretation of, and voluntary compliance with, the Federal tax laws, and enhances public confidence in the integrity and efficiency of the IRS. See IRC 7803(e)(3), Purposes and Duties of Office.
- (2) Appeals accomplishes this mission by considering protested cases, holding conferences, and negotiating settlements in a manner which ensures Appeals employees:
  - a. **Act in accord with the Taxpayer Bill of Rights (TBOR) in every interaction with taxpayers.** IRC 7803(a)(3), Execution of Duties in Accord With Taxpayer Rights.
  - b. **Provide a prompt conference and a prompt decision in each case.** A prompt conference and decision enable the taxpayer to know with the least amount of delay, the final decision of the IRS as to the amount of tax liability or other issue in contention, and results in getting into the Treasury additional revenue involved at the earliest practicable date.
  - c. **Make a high-quality decision in each case.** A decision of high quality is required in each case and should represent judicious application of IRS policy and sound legal principles.
  - d. **Effect a satisfactory number of agreed settlements.** It is a fundamental purpose of the Appeals function to effect settlement of contested cases on a basis fair to both the Government and the taxpayer to the maximum extent possible by resolving non-docketed cases in non-docketed status and resolving docketed cases without trial.
- (3) Appeals holds conferences to provide a meaningful opportunity for taxpayers to present their position and to consider settlement proposals to resolve tax disputes. See IRM 8.6.1, Conference and Issue Resolution, for information on Appeals conference techniques.
- (4) Appeals provides multilingual services to taxpayers who speak limited English to resolve tax controversies in an effective and informative manner, in accordance with IRM 22.31.1, IRS Language Services. Generally, bilingual employees provide the services, either those on a bilingual position description or those who volunteer.
- (5) In furtherance of the Appeals Mission, Appeals personnel should provide a unified Appeals position to taxpayers and/or practitioners in the settlement of an issue. This extends to all members of Appeals involved in the case. While there may be differing positions and/or opinions during the discussion of an

issue, the ultimate resolution of the issue should be based upon the conclusions reached by the Appeals employee with ultimate responsibility for the case.

## 8.1.1.3 (01-09-2024) **Appeals Delegation Orders and Policy Statements**

- (1) Appeals is the IRS dispute resolution forum. The Commissioner granted Appeals authority to consider and negotiate settlements of IRS controversies. See IRM 1.2.2.9.8, Delegation Order 8-8 (Rev. 1) (formerly DO-66, Rev. 15), Authority of Appeals in Protested and Tax Court Cases, and IRM 1.2.1.9.6, Policy Statement P-8-47, Consideration to be given to offers of settlement.
- (2) Delegations of Authority, more commonly referred to as “Delegation Orders,” place authority in the position(s) where actual operational responsibility resides. This frees officials from having to consider issues which can be handled at lower levels. Time and resources are saved when matters are forwarded directly to the designated office rather than to heads of office for action. See IRM 1.11.4, Servicewide Delegation Order Process. For Delegation Orders applicable to Appeals’ functional authority, see IRM 1.2.2.9, Delegations of Authority for the Appeals Process, and its related subsections.
- (3) IRS Policies, commonly referred to as “Policy Statements,” are major decisions of the Commissioner, Deputy Commissioners, Chiefs and Directors directly reporting to the Commissioner and Deputy Commissioners, Division Commissioners and/or the National Taxpayer Advocate, within the framework of basic tax administrative policies of Treasury and Congress. IRS Policies govern and guide IRS personnel in the administration of internal revenue laws and do not directly relate to time schedules or the allocation of funds, staffing, equipment or other resources. They can form the basis for procedures and instructions in the IRM. See IRM 1.11.3, Servicewide Policy Statement Process. For Policy Statements applicable to the Appeals’ function, see IRM 1.2.1.9, Policy Statement for the Appeals Process.

## 8.1.1.3.1 (01-09-2024) **Some Exceptions to Appeals Authority**

- (1) There are certain issues or cases where Appeals may defer action or decline to settle.
- (2) Appeals does not settle cases contrary to Technical Advice Memoranda (TAM) if the advice is favorable to the taxpayer, concerns an organization’s exempt status or private foundation classification, or concerns an employee plan’s status or qualification. See IRM 8.6.3, Appeals Rulings.
- (3) Once Headquarters and the taxpayer agree to terms for a change in accounting method and enter into a consent agreement, Appeals will not change those terms through an administrative settlement of the matter. Chief Counsel’s office can revoke or modify a consent agreement in the year of change. If the facts or law changes in a subsequent year, Appeals can change the taxpayer’s method to a different method.
- (4) Appeals will not consider cases where a criminal prosecution, or a recommendation for criminal prosecution, is pending for a tax-related offense, except with the concurrence of the Office of Chief Counsel, IRS’s Criminal Investigation, or the Department of Justice, as applicable. See IRM 8.7.1, Guidelines for Cases with Special Issues, and Delegation Order 8-8.
- (5) In settling cases, Appeals does not apply litigating hazards to arguments raised by a taxpayer regarding the validity of Treasury Regulations or procedural validity of IRS notices or revenue procedures published in the Internal

Revenue Bulletin (IRB). The preceding sentence does not apply if there is an unreviewable decision from a federal court invalidating the regulation as a whole or the provision in the regulation that the taxpayer is challenging or holding the IRB notice or revenue procedure to be invalid. For this purpose, an unreviewable decision means the decision can no longer be appealed to any federal court because all appeals in a case have been exhausted or the time to appeal has expired and no appeal was filed. Appeals can, however, apply litigating hazards to other arguments for that issue and may also settle other issues in the case based on litigating hazards. Examples of validity challenges include assertions that:

- The Treasury regulation, IRB notice, or revenue procedure did not comply with the Regulatory Flexibility Act, the Paperwork Reduction Act, or the notice-and-comment requirements of the Administrative Procedure Act, as applicable.
- The Treasury regulation is contrary to the statute or exceeds the scope of the statute.

8.1.1.4  
(04-04-2014)  
**Examination Cases  
Under Appeals  
Jurisdiction**

- (1) The IRS is responsible for administering tax laws enacted by Congress. In carrying out this duty, Compliance examines selected tax returns in Field and Campus offices.
- (2) The following table shows a chronological listing of what happens once Compliance examines the taxpayer's return.

If ...	Then ...
Compliance examines selected tax returns	Usually, Compliance issues a preliminary (30 or 60 day) letter with appeal rights.
Taxpayer does not agree with proposed adjustments by Compliance	They may request an Appeals conference.
Taxpayer does not agree with Compliance's proposed adjustments AND does not request an appeal	Usually, Compliance issues a notice of deficiency (90 or 150 day letter) or other final notice or letter providing U.S. Tax Court rights.
No petition is filed in response to the notice or letter	Compliance makes a default assessment based upon the findings in the notice or letter.
A petition is filed	Compliance routes the case through Appeals to Area Counsel to file an answer in response to the petition.
The petition is answered	Counsel returns case to Appeals for settlement consideration.
No settlement is reached	Appeals returns case to Counsel for trial preparation.

- (3) Appeals also receives Exempt Organization cases where adverse action is proposed on an organization's exempt status or private foundation classification, and Employee Plans cases involving an employee plan's status or qualification.
- (4) Appeals jurisdiction includes, but is not limited to, cases subject to notice of deficiency procedures or cases involving a tax liability.
- (5) In most cases, Compliance issues a preliminary (30 or 60 day) letter to the taxpayer.
- (6) In general, taxpayers request an Appeals conference and, when required, file a protest against the proposed deficiency, overassessment, or determination. See Pub 5, Your Appeal Rights and How To Prepare a Protest If You Disagree, for protest requirements, and IRM 8.6.1, Conference and Issue Resolution, for conference and issue resolution procedures.

8.1.1.4.1  
(02-10-2012)  
**No Appeals Conference  
or Concession on  
Certain Arguments**

- (1) As provided in 26 CFR 601.106(b), Appeals Functions, the administrative appeal procedures do not extend to cases solely involving the failure or refusal to comply with the tax laws because of moral, religious, political, constitutional, conscientious, or similar grounds. Such arguments are given no weight in settlement.

8.1.1.4.2  
(01-09-2024)  
**"No Immediate Tax  
Consequence" Cases**

- (1) Generally, cases considered by Appeals involve a disputed tax liability. However, in some cases there is no tax liability in dispute for the period under consideration. These cases are called "No Immediate Tax Consequence" cases.
- (2) Where required by law, IRS policy, regulation, ruling or procedure, Appeals considers cases that do not have an immediate tax consequence. This situation most frequently occurs when adjustments result in a potential deficiency or an overassessment but because of a net operating loss (NOL) carryback, no deficiency or overassessment results; or, adjustments are made to an NOL carryforward and the carryforward year has not been examined. Other examples of cases with no immediate tax consequences are employee plans determination cases and estate tax cases under IRC 6166, Extension of Time for Payment of Estate Tax Where Estate Consists Largely of Interest in Closely Held Business.
- (3) As the IRS's dispute resolution forum, Appeals considers these **no immediate tax consequence** cases when requested by the taxpayer. Exam IRM provisions discuss the procedures followed in forwarding these cases to Appeals for consideration.
- (4) Taxpayers requesting an Appeals conference under the provisions of this section must file a protest addressing the proposed adjustment. See Pub 5, Your Appeal Rights and How To Prepare a Protest If You Disagree, for protest requirements.
- (5) If a conference is held on a "no immediate tax consequence" case and a settlement is reached, follow normal closing procedures, including preparing a Form 5402, Appeals Transmittal and Case Memo. Identify the case on Form 5402, under "Special Features," as one involving the settlement of a "no immediate tax consequence" case. When appropriate, secure a closing agreement on all agreed cases and use closing code 03. For an unagreed

case, include a statement on Form 5402 stating no agreement was reached and use closing code 13 (unagreed pre-90).

- (6) Policy Statement 8-3 (Formerly P-8-50) governs reopening “no immediate tax consequence” cases. See IRM 1.2.1.9.3, Policy Statement 8-3 (Formerly P-8-50).
- (7) Follow Appeals’ IRM Part 8 guidance for providing Compliance with feedback on Appeals case decisions.

#### 8.1.1.5

(01-09-2024)

#### Collection Cases under Appeals Jurisdiction

- (1) **Collection Due Process** - RRA 98 gives taxpayers the right to a Collection Due Process (CDP) hearing with Appeals when they receive one of the following notices:
  - a. Notice of Federal Tax Lien Filing and Your Right to A Hearing Under IRC 6320
  - b. Final Notice - Notice of Intent to Levy and Notice of Your Right To A Hearing
  - c. Notice of Jeopardy Levy and Right of Appeal
  - d. Notice of Levy on Your State Tax Refund - Notice of Your Right to a Hearing
- (2) IRC 6320, Notice and Opportunity For Hearing Upon Filing Notice of Lien, requires the taxpayer be given notice after the filing of a Notice of Federal Tax Lien (NFTL). IRC 6330, Notice and Opportunity For Hearing Before Levy, requires the taxpayer be given notice of a right to a hearing before taking levy action. The purpose of CDP hearings under IRC 6320 and IRC 6330 is to give the taxpayer an opportunity early in the collection process to work with an independent appeals officer to resolve the collection of the taxpayer’s liability. After a CDP hearing and determination by Appeals, taxpayers have the right to challenge Appeals’ determination in court.
- (3) **Equivalent Hearing** - If a taxpayer did not timely request a CDP hearing with Appeals, the taxpayer may request an “Equivalent Hearing” (EH) within a one year period beginning the day after the date of the CDP notice. The taxpayer must specifically request an EH by checking the EH box on Form 12153, verbal confirmation or a written request. In an EH, the taxpayer may raise all of the same issues available in CDP and Appeals will consider all issues raised. However, the taxpayer does not have the right to seek judicial review of Appeals’ decision.
- (4) **Offer-in-Compromise** - An Offer in Compromise (OIC) is an agreement between a taxpayer and the government to settle a tax liability in exchange for payment of less than the full amount owed. Appeals has jurisdiction to make decisions on OIC cases in the following circumstances:
  - a. Offers appealed after being rejected by Collection
  - b. Offers based wholly or in part on doubt as to liability after being rejected by Examination, or if the liability was previously determined by Appeals
  - c. Offers submitted directly to Appeals as an alternative to the proposed collection in a CDP or EH case
  - d. Offers being evaluated by Collection when a Notice of Federal Tax Lien is filed and the taxpayer requests a CDP hearing or Equivalent hearing

- (5) **Collection Appeal Program** - Collection Appeal Program (CAP) is an administrative appeal for certain collection actions. A taxpayer, or a third party whose property is subject to a collection action, may appeal the following actions under CAP:

- a. Levy or seizure action that was or will be taken
- b. Notice of Federal Tax Lien that was or will be filed
- c. Filing of a Notice of Federal Tax Lien against an alter-ego or nominee's property
- d. Denials to issue lien certificates; such as subordination, withdrawal, discharge or non-attachment
- e. Rejected, proposed for termination or terminated installment agreements
- f. Disallowance of taxpayer's request to return levied property under IRC 6343(d), Return of Property in Certain Cases
- g. Disallowance of property owner's claim to return property under IRC 6343(b), Return of Property

CAP decisions by Appeals are binding on the taxpayers and the Collection functions.

- (6) **Trust Fund Recovery Penalty** - Trust Fund Recovery Penalty (TFRP) is a penalty against any responsible person who willfully fails to collect, account for, and pay over taxes held in trust. The TFRP is imposed for:

- a. Willful failure to collect tax
- b. Willful failure to account for and pay over tax
- c. Willful attempt in any manner to evade or defeat tax or the payment thereof

TFRP under IRC 6672, Failure to Collect and Pay Over Tax, or Attempt to Evade or Defeat Tax, is equal to the total amount of tax evaded, not collected, or not accounted and paid for. The Collection function is solely responsible for recommending assertion of the TFRP. Before assessing a TFRP, a 60-day notice of proposed assessment is sent or given to the taxpayers, along with their right to an appeal. The taxpayer has 60 calendar days to file a timely protest (75 calendar days if the letter is addressed outside of the United States). When the taxpayer files a timely protest, the case is sent to Appeals. Appeals is responsible for determining if the party is willful and responsible for the TFRP. Only Appeals can make the final administrative determination with respect to the taxpayer's protest.

- (7) **Trust Fund Recovery Penalty Claims** - The IRS must provide for an appeal of a Form 843, Claim for Refund and Request for Abatement. When the IRS assesses the TFRP, the taxpayer has a right to pay the appropriate amount of the assessment and file a refund claim with the IRS. If Collection denies the taxpayer's claim, Collection sends the taxpayer a letter notifying them of the 30-day time period to file a timely administrative appeal. If a timely administrative appeal is received, the case is heard in Appeals.

8.1.1.6  
(01-09-2024)  
**Appeals Miscellaneous  
Duties**

- (1) Appeals employees perform miscellaneous duties often involving communications with other IRS functions, and outside accounting and/or tax groups. These duties include providing feedback to Compliance, making presentations on Appeals practices and procedures, writing articles for publication, testifying in court cases, and producing records requested by taxpayers.

- (2) The following subsections provide specific guidelines to use when performing these miscellaneous duties.

8.1.1.6.1  
(01-09-2024)

**Feedback Procedures to  
Collection and  
Examination**

- (1) Appeals Area Directors often become aware of problem areas and trends through review of work units assigned within their areas. When the need arises, discuss these concerns with Compliance management officials. Quarterly meetings between Appeals and Compliance are encouraged.
- (2) By providing meaningful feedback to Compliance functions, Appeals assists local management in their effort to achieve a better work product.
- (3) Appeals follows established procedures as described in workstream IRMs to send hardcopy or electronic copies of Appeals Case Memorandums (ACM) and/or Forms 5402 to provide case-specific feedback to Compliance. Appeals also provides feedback loop reports or other data as agreed upon in cross-functional advisory board meetings.
- (4) When feedback is warranted, the Appeals Team Manager (ATM) or Appeals Team Case Leader (ATCL) prepares a clear, concise, objective memorandum to the appropriate Compliance function. See IRM 8.6.2, Appeals Case Memo Procedures, and other IRM Part 8 guidance.

8.1.1.6.2  
(02-10-2012)

**Public Speeches and  
Articles for Publication**

- (1) To avoid controversy or disclosure, the subject matter of all speeches and articles should be Appeals practices and procedures. As a matter of policy and to avoid disclosure penalties, do not discuss cases.
- (2) When the subject of a speech or article is not directly related to the IRS or Treasury matters, clearance is not required, provided there is no conflict with the policies of the IRS or Department of Treasury. Further, it must be made clear that the speaker or author does not represent the IRS or Department of Treasury.
- (3) Speeches and/or articles must not cover any of the following:
  - Pending legislation
  - Specific cases awaiting final disposition by the IRS
  - Proposed regulations, procedures and policies which have not been finally and officially announced
  - Legally or administratively restricted information
- (4) Discuss doubtful issues and questions on jurisdiction with the Appeals Communications Public Affairs Specialist.

8.1.1.6.3  
(02-10-2012)

**Testimony by Appeals  
Employees in IRS Tax  
Cases**

- (1) IRS tax cases are cases referred by or on behalf of the IRS to the Department of Justice or offices of the U.S. Attorney for defense or prosecution or other affirmative action, as well as U.S. Tax Court cases. These cases include, but are not limited to, the following:
  - a. Criminal tax
  - b. Refund litigation
  - c. Summons enforcement
  - d. Wrongful levies
  - e. Foreclosure of tax liens
  - f. Bankruptcies

- g. Actions affecting personal rights of employees or former employees of the IRS
- h. Federal tort claims litigation involving IRS employees
- i. Freedom of Information and Privacy Act litigation
- j. Treasury Inspector General for Tax Administration (TIGTA)
- k. Report of Foreign Bank and Financial Accounts (FBAR)

- (2) Use of an Appeals employee as a Government witness in IRS tax cases to produce IRS records or information or testify on matters discussed during the Appeals conference, or as an expert witness for the Government, is discouraged. The requesting organization must justify the need by stating the special circumstances involved. The request must be submitted to and approved by the appropriate Appeals Area Director. For additional information, see IRM 11.3, Disclosure of Official Information.
- (3) Use of an Appeals employee as an expert witness for the Government should be limited to those instances where no other qualified IRS employee is available.

8.1.1.6.4  
(02-10-2012)  
**Requests for Appeals to Produce Records**

- (1) Upon receipt of a request, subpoena, notice, order, or other demand to testify or to produce or disclose IRS records or information in cases other than those specified in the above paragraph, refer to the procedures in IRM 11.3, Disclosure of Official Information, and consult with the local Disclosure Officer.
- (2) Appeals case memos may also be requested by taxpayers either informally or pursuant to the Freedom of Information Act (FOIA). They are not exempt in their entirety from disclosure. Due to the sensitive nature of these documents, coordinate all taxpayer requests for Appeals case memos with both Area Counsel and the local Disclosure Officer. Refer to IRM 37.1.2, Chief Counsel Directives Manual, Disclosure of Information, and IRM 11.3, Disclosure of Official Information, for guidance.

8.1.1.7  
(01-09-2024)  
**Programs of Interest to Appeals**

- (1) The following table lists miscellaneous IRS programs, offices, and IRM references, applicable to the Appeals organization.

Reference	Topic	Description
IRM 1.4.32 , Internal Control Review Program	Government Accountability Office (GAO) and Treasury Inspector General for Tax Administration (TIGTA) Audit	This IRM sets forth the procedures for effective monitoring and implementation of planned corrective actions (PCAs) affecting IRS internal controls, and detailed guidance on updating GAO/TIGTA's audit tracking system with information on recommendations and PCAs resulting from audits.
IRM 1.29.1, Audit Coordination Process, Authorities and Responsibilities	GAO/TIGTA Audit	This IRM provides guidelines and procedures for improving timeliness and accuracy of responses to GAO/TIGTA audit findings and recommendations, ensuring responses are strategic and consistent with corporate messages and the Agency's mission, and identifying controversial or sensitive issues as soon as possible.
IRM 5.8, Offer in Compromise, and IRM 5.14, Installment Agreements	Accounts Receivable	ATEs can assist in the reduction of the outstanding accounts receivable of the IRS by soliciting advance payments, using offer in compromise and installment agreement procedures, and quickly resolving problems with incorrect assessments.
IRM 11.3, Disclosure of Official Information	Privacy Act & Disclosure	IRC 7213 provides for criminal penalties and IRC 7431 provides for civil damages for unauthorized disclosures of confidential tax information. All personnel should refer to IRM 11.3 for the procedures regarding disclosure of tax returns and return information under IRC 6103 . For additional assistance regarding disclosure matters, consult your Disclosure Officer.

Reference	Topic	Description
IRM 13.1, Taxpayer Advocate Case Procedures	Taxpayer Advocate Service	Appeals is an unusual function within the IRS. Part of its authority is derived from the Commissioner and another part is derived from the Chief Counsel. Authority on cases that are docketed in the Tax Court comes from the Chief Counsel, while authority on non-docketed cases comes from the Commissioner. TAS involvement is limited to non-docketed cases where Appeals authority is received from the Commissioner. Of course, if there is a problem on a docketed case which could be resolved with TAS assistance, Appeals employees are encouraged to request TAS assistance.
IRM 13.1.20, TAS Taxpayer Assistance Order (TAO) Process	Taxpayer Assistance Orders	Appeals employees can initiate a Form 911, Request for Taxpayer Advocate Service Assistance (And Application for Taxpayer Assistance Order), on non-docketed cases where Appeals' authority is derived from the Commissioner.
IRM 25.4, Employee Protection	Employee Protection	IRM 25.4.1, Potentially Dangerous Taxpayer, provides procedures and guidelines for referring and designating taxpayers under the "Potentially Dangerous Taxpayer" (PDT) program. IRM 25.4.2 Caution Upon Contact Taxpayer, provides information on the criteria for determining a "Caution Upon Contact (CAU)" status, procedures, five-year reviews and the location of the CAU indicator.
IRM 25.16, Disaster Assistance and Emergency Relief	Natural Disasters & Emergencies	This IRM sets forth the procedures in designated disaster/emergency areas. Appeals must be sensitive to taxpayer needs in situations that involve natural disasters and/or emergencies.

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## Exhibit 8.1.1-1 (01-09-2024) Common Terms Used in Appeals

Generally, definitions of terms used in the IRM are with the material where the term is discussed. Some common terms used in IRM Part 8 are as follows:

Term	Definition
90-day letter (Notice of Deficiency)	A presumptively correct legal letter in which the Commissioner determines the taxpayer's tax deficiency - See IRM 4.8.9.2, Notice of Deficiency Definition. Term includes the 150-day letter. References include those issued by the Operating and functional divisions of the IRS.
Administrative File	A file consisting of one or more examined tax returns of a taxpayer, the report of examination, and all papers, correspondence, and other documents relative to the taxpayer's liability for the year or years involved - An administrative file may also consist of collection-related documents such as history, correspondence, financial information, and other documents related to collection action taken on the taxpayer and the relevant tax periods.
ACDS	Appeals Centralized Database System
ACM	Appeals Case Memo
AO	Appeals Officer
APGOLF	Appeals Generator of Letters and Forms - APGOLF, a subsystem of ACDS, is a compilation of most of the letters and forms used by Appeals employees.
APS	Account and Processing Support - The unit responsible for processing cases in Appeals
AQMS	Appeals Quality Measurement System
ATCL	Appeals Team Case Leader
ATCLTM	Appeals Team Case Leader Team Manager
ATCTM	Appeals Tax Computation Team Manager
ATE	Appeals Technical Employee is an umbrella term used to refer to any Appeals employee who is assigned a case for settlement consideration.
ATM	Appeals Team Manager
ATS	Appeals Tax Specialist - An Appeals employee who works IRS campus-generated post-assessment penalty cases
Audit Statement	A settlement computation which gives effect to the decision of Appeals or Counsel showing proposed adjustments, computation of revised tax liability, and deficiency or overassessment - It concerns examination issues and accompanies Appeals case memos. Referred to as Settlement Computations in IRM Part 8.
CAR	Case Activity Record

**Exhibit 8.1.1-1 (Cont. 1) (01-09-2024)****Common Terms Used in Appeals**

<b>Term</b>	<b>Definition</b>
CARATS	Case Activity Record and Automated Timekeeping System. CARATS, a sub-system of ACDS, is used by ATEs to record case activity, case time, and prepare time sheets.
Compliance or Originating Function	An organization with the IRS that makes determinations that are subject to the Appeals process, including the IRS Examination, Collection, and Campus (Service Center) functions. See IRM 8.1.10, Ex Parte Communications.
DIMS	Docket Information Management System - DIMS, a sub-system of ACDS, provides an automated method to electronically track and monitor Appeals' receipt of docketed administrative files.
EP/EO	Employee Plans and Exempt Organizations, functional units within the Tax Exempt and Government Entities (TE/GE) Operating Division
Hearing Officer	Any Appeals employee holding hearings or who otherwise resolves open case issues in Appeals
IRC	Internal Revenue Code
IRM	Internal Revenue Manual
Non-docketed Case	A protested case in which the taxpayer has not filed a petition with the United States Tax Court
Notice of deficiency (90-day letter)	A presumptively correct legal letter in which the Commissioner determines the taxpayer's tax deficiency - See IRM 4.8.9.2, Notice of Deficiency Definition. Term includes the 150-day letter. References include those issued by the Operating and functional divisions of the IRS.
PEAS	Processing Employee Automated System - PEAS, an ACDS sub-system, provides an automated inventory and timekeeping system for APS employees.
Pre-90 Day Case	A non-docketed case - Term includes the pre-150 day cases.
Preliminary Letter	30-day and 60-day letters
Protest	The taxpayer's statement of disagreement with the adjustments proposed by Compliance
PTM	Processing Team Manager - A team manager in APS.
Reference Return	Return which is associated with a case solely for the purpose of providing information
Service Policy	IRS policy as expressed in a policy statement approved by the Commissioner
TAXCAL	Tax Court Calendar program - TAXCAL is a sub-system of ACDS that provides Appeals with a systemic method for identifying and monitoring Tax Court calendar cases and generating Tax Court calendar reports.

## Exhibit 8.1.1-1 (Cont. 2) (01-09-2024)

### Common Terms Used in Appeals

Term	Definition
TCS	Tax Computation Specialist - TCS can refer to the function within Appeals Technical Services, an employee in the TCS position, or the ACDS timekeeping sub-system used by TCS employees to maintain their inventory.
TE	Tax Examiner

