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Department of the Treasury
Internal Revenue Service

8.7.11

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EFFECTIVE DATE

(09-04-2018)

PURPOSE

- (1) This transmits revised IRM 8.7.11, *Technical and Procedural Guidelines, Working Appeals Team Cases*.

MATERIAL CHANGES

- (1) IRM 8.7.11 is revised to incorporate IG AP-08-0418-0006, **Initial Conference Procedures for Liability, Penalty Appeals and Innocent Spouse Cases**.
- (2) IRM 8.7.11 is revised to add new 8.7.11.1 Program Scope and Objectives and its related subsections to comply with the Deputy Commissioners of Services and Enforcement and Operations Support memo dated September 14, 2016, entitled *Heightened Awareness, Sensitivity, and Understanding of Internal Controls*.
- (3) IRM 8.7.11 is revised to incorporate IG AP-08-0117-0001, *Appeals Team Case Leader Team Managers will Sign Form 5402 for Cases Worked by Appeals Team Case Leaders*.
- (4) IRM 8.7.11 is revised to add the list of required documents to be uploaded in IMS.
- (5) IRM 8.7.11 is revised to update Post-Settlement Conference procedures.
- (6) IRM 8.7.11 is revised to add Screening Panel procedures.
- (7) IRM 8.7.11 is updated to add Working Panel procedures.
- (8) Editorial changes are made throughout the document.

EFFECT ON OTHER DOCUMENTS

This supersedes IRM 8.7.11 dated March 16, 2015.

AUDIENCE

Appeals employees

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8.7.11

Working Appeals Team Cases

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8.7.11.1
(09-04-2018)
Program Scope and Objectives

- (1) *Purpose:* This IRM section describes the process and procedures for working team cases in Appeals. These cases are received from Large Business and International (LB&I) and are generally assigned to an Appeals Team Case Leader (ATCL). However, in some instances a senior Appeals Officer (AO) is assigned as a team leader. Therefore, these procedures are used by both ATCLs and AOs who are team leaders on a team case.
- (2) *Audience:* Appeals.
- (3) *Policy Owner:* Appeals Policy is under Director, Case and Operations Support.
- (4) *Program Owner:* Appeals Policy is the program office responsible for providing technical and procedural guidance to the Appeals organization.
- (5) *Contact Information:* Appeals employees should follow established procedures on *How to Contact an Analyst*. Other employees should contact the Product Content Owner shown on the Product Catalog Information page for this IRM.

8.7.11.1.1
(09-04-2018)
Background

- (1) Appeals is the only administrative function of the Service with authority to consider settlements of tax controversies and has the primary responsibility to resolve these disputes without litigation to the maximum extent possible. Appeals' mission is to resolve tax controversies, without litigation, on a basis which is fair and impartial to both the Government and the taxpayer in a manner that will enhance voluntary compliance and public confidence in the integrity and efficiency of the Service. Appeals accomplishes this mission by considering protested and Tax Court cases, holding conferences, and negotiating settlements in a manner which ensures Appeals employees act in accord with the Taxpayer Bill of Rights (TBOR) in every interaction with taxpayers. See IRC 7803(a)(3). See Pub 5170, *Taxpayer Bill of Rights*. For more information, see IRM 8.1.1, *Appeals Operating Directives and Guidelines*.

8.7.11.1.2
(09-04-2018)
Authority

- (1) The authority delegated to Appeals Team Case Leaders as to their respective cases is found in *Delegation Order 8-8 (Rev. 1)*, IRM 1.2.47, *Service-wide Policies and Authorities, Delegation of Authorities for the Appeals Process*.

8.7.11.1.3
(09-04-2018)
Responsibilities

- (1) The Director, Case and Operations Support (COS) is the executive responsible for designing, developing, delivering, and monitoring short and long-range tax administration policies, programs, strategies, and objectives for the Appeals organization.
- (2) The Director, Policy is responsible for providing technical and procedural guidance to Appeals employees, establishing and maintaining policies and standard procedures for Appeals work streams.
- (3) The Policy analyst shown on the Product Catalog Information page as the originator is the assigned author of this IRM.

8.7.11.1.4
(09-04-2018)
Program Reports

- (1) Planning, Quality and Analysis (PQA) provides trends and data analyses and detailed summary reports for Appeals.

8.7.11.1.5
(09-04-2018)

Terms and Acronyms

- (1) See IRM 8.1.1-1 Exhibit, *Common Terms Used in Appeals*, for common terms and definitions used in IRM Part 8. Terms listed in this exhibit are not included in this section.
- (2) The table lists commonly used acronyms and their definitions:

Acronym	Definition
ACM	Appeals Case Memorandum
IMS	Issue Management System
LB&I	Large Business and International
RAP	Rapid Appeals Process
RAR	Revenue Agent's Report
SEMS	Secure Enterprise Messaging System

8.7.11.1.6
(09-04-2018)

Related Resources

- (1) This IRM is the primary source of guidance on this program.
- (2) Authors, reviewers and managers can find helpful information on these websites:
 - *ATCL*
 - *LB&I*

8.7.11.2
(09-04-2018)

Introduction to Working Appeals Team Cases

- (1) This section discusses procedures for working team cases in Appeals. These cases are received from Large Business and International (LB&I) and are generally assigned to an Appeals Team Case Leader (ATCL). However, in some instances a senior Appeals Officer (AO) is assigned as team leader. Therefore, these procedures are used by both ATCLs and AOs who are team leaders on a team case.
- (2) A team case work unit generally requires the use of Appeals Officers (AOs) as team members in addition to the team case leader. It has a level of difficulty and impact characterized by the presence of extremely complex issues in dispute. Each team case work unit involves:
 - a. Significant amounts of money at issue, while the determination of "significant" is at the discretion of the Appeals Team Manager (ATM), the tax in dispute is generally \$10 million or more; or
 - b. A significant number of issues, some of which are highly complex, for the team case leader to coordinate. The team case leader generally works some of the significant issues. The ATM determines whether the work unit contains a significant number of issues on a case-by-case basis.
- (3) See IRM 8.1.1.1, **Accomplishing the Appeals Mission**, for further information.
- (4) Use of Issue Management System (IMS) is mandatory for working LB&I cases. Cases carded into Appeals Centralized Database System (ACDS) after February 6, 2012, must be worked in IMS in order to provide feedback to

LB&I. ACDS will remain the Appeals system of record for case management and recording time on cases. An Online 5081 is required to gain access to IMS.

- a. Each user should request the “IMS-PRODUCTION- LMSB USER ACCESS” application and add a statement indicating an Examination Return Control System (ERCS) ID is not required.
 - b. Verify the case is in IMS. If the case is not in IMS, ask your ATM to search the APS inventory in IMS for cases that are not currently in your Appeals IMS Case Inventory.
 - c. Additional information on the various roles in IMS and training modules can be found on the *BSP - Appeals Applications - Issue Management System* website.
- (5) Use of Secure Enterprise Messaging System (SEMS) is optional. Information can be found at *SEMS*.

8.7.11.2.1
(09-04-2018)
**Receipt of New
Assignment**

- (1) Effective July 6, 2016:
- a. The Uniform Acknowledgement Letter (UAL), Letter 4046, *Appeals Team Case Leader Uniform Acknowledgement Letter*, is no longer required and was made obsolete.
- Note:** Therefore, the Team Manager or designee will no longer issue Letter 4046 or any other substitute letter within 30 days of receipt for nondocketed cases or upon assignment for docketed cases, and the assigned ATCL/AO is no longer required to verify the issuance of the UAL.
- b. The assigned ATCL/AO is no longer required to validate the statute within five business days from receipt of the case (i.e., date of CR/NR).
- (2) The ATCL/AO will take the following actions within **45 calendar days** of receipt of a newly assigned and/or transferred case (i.e., date of CR/NR), except as stated in IRM 8.7.11.2.1 (4) below:

Step	Action
1.	Complete the statute verification. Ensure there are at least 365 days (270 days in estate tax cases or section 6206 cases) remaining on the statute when the case was received by Appeals before accepting the case. See IRM 8.21, <i>Appeals Statute Responsibility</i> , for detailed procedures on statutes and consents. Exception: There must be at least 180 days remaining on the statute of limitations when the case is received in Appeals when the originating function returns a case that was previously returned to them for consideration of new information or a new issue.
2.	Validate all ACDS critical data fields (CDFs). See IRM 8.10.3, <i>Appeals Inventory Validation Process</i> , for more information on the ATCL/AO assignment Validation of CDFs.

Step	Action
3.	<p>Determine whether the case is ready for Appeals' consideration. See IRM 8.2.1.5, <i>Returning a Case to Examination - ATE</i>, for more information on grounds for returning a case when it is not ready for Appeals' consideration.</p> <p>Note: If the ATCL/AO determines that a conference is not appropriate, the ATCL/AO will not send an initial contact letter. Instead, go to IRM 8.7.11.2.1(3), below.</p>
4.	<p>Make initial contact. For both non-docketed and docketed cases, the ATCL/AO may make initial contact by letter or by telephone in lieu of using a contact letter. If the ATCL/AO makes initial contact by telephone, during such contact, the ATCL/AO must ensure that the substance of the contact letter is discussed with the taxpayer and documented in CARATS. If the ATCL/AO makes initial contact by letter:</p> <ul style="list-style-type: none"> • For non-docketed cases, issue contact Letter 5157, <i>Nondocketed Acknowledgement & Conference</i>, or another approved contact letter. • For docketed cases, issue contact Letter 3808, <i>Docketed Acknowledgement and Conference (To Petitioner)</i>, or Letter 3808-A, <i>Docketed Acknowledgement and Conference (To Counsel of Record)</i>.
5.	<p>Attempt to settle the case based on factual hazards when the case submitted by the originating function is not fully developed and the taxpayer has provided no new information or evidence. A fully developed case has all the pertinent evidence well documented with an easy to follow audit trail. Generally, the case contains the evidence needed to support the adjustments proposed in the RAR.</p>

By enclosing	You are explaining -
Notice 1016, <i>How to Stop Interest on Your Account</i>	How to stop interest on a proposed or potential liability
Publication 4227, <i>Overview of the Appeals Process Brochure</i>	The Appeals process
Publication 5083, <i>Welcome to ATCL Operations</i>	The Appeals process for cases worked in ATCL Operations
Publication 4167, <i>Introduction to Alternative Dispute Resolution</i>	Post Appeals Mediation, fast track settlement, fast track mediation, early referral, and RAP
Publication 4576, <i>Orientation to the Penalty Appeals Process</i>	The Appeals process, right to representation, and payment options for penalty appeals cases.

- (3) If the ATCL/AO determines that a conference is not appropriate, in lieu of sending Letter 5157, Letter 3808, Letter 3808-A, or another contact letter, **within a reasonable time frame**, the ATCL/AO will:
 - **For a premature referral**, prepare Letter 5209, *Appeals Referral to Examination*, secure any additional documentation (if applicable), and submit the case to the ATM for closing. The ATCL/AO will document this section in CARATS by inputting AC-OD.
 - **For a full concession case**, notify the taxpayer/representative (if appropriate), prepare the appropriate closing letter/documents, and submit the case to the ATM for closing. The ATCL/AO will document this section in the CARATS by inputting DM.
- (4) The ATM will be reasonable in extending the contact time frame if circumstances (e.g., leave, workload, case complexity or other priorities) prevent the ATCL/AO from meeting them. If the ATM extends the time frame, the ATCL/AO will document this decision and the agreed upon time frame in the CAR for the case. **The statute verification time frame shall not be extended beyond 45 calendar days.** if the contact time frame is extended beyond **75 calendar days**, then the ATM will contact the taxpayer/representative by correspondence providing a status of the case and to whom the case is assigned.

8.7.11.3
(09-04-2018)
**Appeals Team Case
Leader (ATCL) Position**

- (1) The ATCL promotes timely resolution of large complex work units received from LB&I. He/she has settlement authority and is responsible for simultaneously managing at least two major work units on a continuing basis.
- (2) An ATCL considers no more than two consecutive cycles of the same taxpayer, unless there has been an intervening cycle considered by another ATCL or AO, or unless there are special circumstances determined by management.
- (3) After initial discussions between the ATCL and his/her ATM, the ATCL has complete control of the case.
- (4) The ATCL has settlement authority for all work unit assignments. However, the ATCL's proposal of settlement may be subject to the concurrence of Technical Specialists (Technical Guidance or International) for Coordinated Issues. See IRM 8.7.11.12.1 for review and concurrence requirement for Coordinated Issues. The ATCL Team Manager (ATCLTM) may propose a change to the proposed settlement, and if agreement is not reached, the Area Director, ATCL Operations, will resolve the issue. Both the ATCL and the ATCLTM will sign Form 5402, **Appeals Transmittal and Case Memo**, for all work units. The ATCLTM's signature on Form 5402 will confirm that the ATCLTM has no proposed changes to the settlement. The ATCL will then counter-sign the closing documents, which include the Form 5402.

Note: Because the ATCL has settlement authority on all related work units assigned, cases worked in ATCL Operations are not subject to the provisions in IRM 8.2.1.9.1, *Reviewing Official's Acceptance of Settlement Proposal*, and IRM 8.2.1.9.2, *Reviewing Official's Rejection of Settlement Proposal*, and the related subsections regarding a reviewing official's approval or rejection of the ATCL's settlement proposal.

- (5) The ATCL controls several work units concurrently, depending on their complexity and special characteristics. When appropriate, he/she is assigned complex work units not meeting the criteria in IRM 8.7.11.2(2) above.
- (6) The ATCL Operations' office may recommend the establishment of a new ATCL position, depending on workload. The position may be filled temporarily or permanently, or may require a detailee. A request to establish a new ATCL position must be submitted for approval to the Chief, Appeals with a justification for establishing the position.

8.7.11.4
(09-25-2013)
**Team Conference
Procedures**

- (1) A team approach is used in the absence of a formally established ATCL position. Two or more Appeals Officers (AOs) can form a team, pooling proficiency to resolve all issues expeditiously. A team leader is assigned when a team approach is used.
- (2) Appeals Officers of any grade are assigned to teams, and support personnel are used as needed.
- (3) When an LB&I case is assigned to an AO who later determines a team effort would expedite completion of the work unit, the manager assigns more personnel.
- (4) Generally, team leaders can consider no more than two consecutive cycles of the same taxpayer, unless there has been an intervening cycle considered by another AO or unless there are special circumstances determined by management.

8.7.11.4.1
(09-04-2018)
**Responsibilities of Team
Leader and Team
Members**

- (1) The team leader recommends disposition of the work unit. Any understanding reached at an interim level on an issue-by-issue basis between a team member and a taxpayer or representative is tentative and must fit in with recommendations of the team leader who must be fully acquainted with the strengths and weaknesses of issues and their proposed disposition.
- (2) Team members are responsible for considering their portion of the work assignment independently unless the manager believes authority over a team member's issue rests with the team leader. The team leader will ascertain that the required concurrence is obtained from Technical Guidance or International.
- (3) The team leader and team members are responsible for providing LB&I the opportunity to consider and timely review and comment on new information or evidence presented by the taxpayer. See IRM 8.7.11.6.3, for more information and documentation requirements.
- (4) Periodic team meetings are held to discuss the possible impact of each member's issues on those of other members, to define objectives and to otherwise coordinate team activities. The team leader is consulted on technical and procedural questions consistent with the degree of independence given the team members by the team leader.
- (5) The team leader is responsible for meeting target dates and identifying and attempting to eliminate obstacles when problems are encountered by team members. Periodically, the team leader's ATM is updated on the progress and informed of any problems that may develop in the case.

- (6) When disagreements/differences arise between team members (including members from Technical Guidance and International), please see IRM 8.1.1.1(6), **Accomplishing the Appeals Mission**, for additional information.
- (7) The ATCL has settlement authority on all related work units assigned. However, the ATCLTM may propose a change to the proposed settlement. If there is a disagreement between the ATCL and the ATCLTM and an agreement is not reached, the issue will be resolved by the Area Director. Both the ATCL and the ATCLTM will sign Form 5402 for all work units. The ATCLTM's signature on Form 5402 will confirm that the ATCLTM has no proposed changes to the settlement. The ATCL will then counter-sign the closing documents.
- (8) Team members are responsible for preparing Appeals Case Memoranda (ACMs) for the issues assigned to them. The team leader coordinates preparation of the ACM and Form 5402 except where a case within the work unit is handled entirely by one team member. If the team leader resolves an issue assigned to a non-Technical Guidance or International team member without the member's agreement, the team leader must prepare the ACM for that issue. If the team leader revises the team member's ACM, the team leader will provide a copy of the revised ACM to the team member within a reasonable time.
- (9) Team members are responsible for providing the **Large Case Quarterly Status Report** to the team leader by the 5th business day of the month following the end of the quarter. This report is mandatory for all team members assigned to ATCL team cases.
- (10) The team leader is responsible for statute of limitations control except in a multi-case unit where cases are assigned to another team member; then, the team member to whom the case is assigned is responsible.

8.7.11.5
(10-26-2007)
**Grading Team Case
Work Assignments**

- (1) Portions of team case leader work units assigned to individual AO team members are graded on the basis of complexity and difficulty of the assigned portion. Team leader control varies and must be considered in determining the grade level to assign to a team member's portion.
- (2) The tentative grade of a team member's assignment is determined as if it were a work unit standing alone but taking into consideration the expected degree of control.
- (3) The final grade of the assignment must reflect the actual impact of team leader control and related limitations on the team member's responsibility for decision making, presenting results, and other relevant factors. Depending on the degree actually experienced, those factors may result in a lower final assignment grade.

8.7.11.6
(09-04-2018)
**Preliminary Review of
Case by Team Leaders**

- (1) IRM 8.2.1.5, *Returning a Case to Examination - ATE*, discusses some of the reasons for returning a case. The list is not all inclusive.
- (2) Regardless of the reason, discussions must be held and an agreement reached between Appeals and LB&I management on actions required by LB&I before the case is accepted by Appeals.

8.7.11.6.1
(09-04-2018)

**Team Leader Review of
the Statute of
Limitations**

- (1) When assigned a case, immediately examine all returns to determine the statute of limitation expiration date and to verify the expiration date appearing on the case summary card. See IRM 8.7.11.2.1.

Note: There must be at least 365 days remaining on the statute of limitations when the case is received in Appeals. If a case is returned to Examination, there must be at least 210 days remaining on the statute of limitations when the case is received in Examination and at least 180 days remaining when the case is returned to Appeals.

- (2) It's the team leader's full responsibility for obtaining the proper consents to extend the period of assessments, when necessary, even when a portion of the case is separated and assigned to a team member. Although the team member may take action to extend the statute on his/her assignment, the team leader is responsible for assuring the statutes are protected.
- (3) Because a team leader case generally takes a significant period of time to resolve, request statute extensions to cover the time frame. A team leader case assignment may involve numerous corporations, partnerships, etc., which must be reviewed to verify any unique statutes.
- (4) There are many unusual statute situations which require special consideration, such as:
 - a. Successors in Interest - If, since the last statute extension, there has been a successor in interest, it is necessary to determine who is authorized to sign for the predecessor corporation and it is necessary to determine the proper captions to use. One of the sources for determining this information is the Board of Directors resolution. It is also advisable to consult with local Counsel in making this determination. See IRM 25.6.22.6.2.5, **Merged Corporations**, regarding merged corporations.

Note: For consolidated income tax returns, one consent will suffice to cover all companies included in the consolidated tax return, but the years included on a single consent must be years during which the group is considered to have remained in existence. See IRM 25.6.22.6.2.1, **Consolidated Returns**, regarding successors for a group of affiliated companies that filed a consolidated return.
 - b. TEFRA Considerations - TEFRA can create complications concerning statutes. See TEFRA IRM 8.19, **Appeals Pass-Through Entity Handbook**, for additional information on TEFRA cases and IRM 8.21, **Appeals Statute Responsibility**, for additional information on statutes.
 - c. Reference Returns - If it is determined a consent is unnecessary, prepare a memorandum for the file (or other approved form) setting out the facts. Attach the original of the memorandum to the return, and give a copy to APS to update ACDS. See IRM 8.21.3.1.3.7, **Cases Where a Consent is Not Necessary**.
 - d. Returns Held Off Site - In situations where the original returns are held off site, which is a practice in a number of offices, copies of all consents, POAs, and the front page of the returns must be kept by the team leader.

8.7.11.6.2

(09-04-2018)

Team Leaders**Determination of****Adequacy of RAR,****Protest and Rebuttal to****Protest**

- (1) The team leader is responsible for determining the completeness of the administrative file - whether all related returns are present, whether the protest, rebuttal and the power of attorney, etc., are included.

Note: Often the file contains numerous powers of attorney; therefore, exercise care when determining who the proper representative is.

- (2) As part of the preliminary review, verify LB&I reviewed the protest and made an adequate written response. Verify rebuttals from specialists when protested issues are based in whole or in part on specialists, e.g., international examiners, engineers, economists, etc. The lack of an adequate review and rebuttal of the protest is sufficient reason to return the case to the examiner.
- (3) During preliminary review of the case, note important aspects of the case such as Joint Committee requirements, claims, tentatives, new issues, Appeals Co-ordinated Issues, Practice Areas, Practice Networks, and/or Campaign issues.

8.7.11.6.3

(09-04-2018)

**Returning a Case to
LB&I**

- (1) ATCLs/AOs are not investigators or examining officers and may not act as such. Therefore, ATCLs/AOs will conduct a preliminary review of a case as soon as possible to determine whether the case must be returned to Examination. While taxpayers may present new information or evidence to Appeals, the presentation of new factual information generally will require that the case be returned to Examination. See IRM 8.2.1.5, *Returning a Case to Examination*, for general guidelines for returning a case.
- (2) These guidelines apply to LB&I-sourced work excluding Primary Business Code (PBC) 315, International Individual Compliance (IIC) cases. Use the following chart to determine when information is returned to LB&I:

TYPE OF INFORMATION RECEIVED	ACTION TO BE TAKEN
(1) Taxpayer provides Appeals with information that LB&I previously requested during the examination	Appeals will release jurisdiction of the case to LB&I
(2) Taxpayer, on its own initiative, provides Appeals with information not previously shared with LB&I during the examination	Appeals will release jurisdiction of the case to LB&I
(3) Taxpayer provides information in response to a question or request from Appeals to clarify or corroborate information contained or referenced in the RAR, Protest or Rebuttal	Appeals will provide LB&I with an opportunity to review and comment on the information within a specified time frame
(4) Taxpayer makes a new argument (not including new information)	Appeals will provide LB&I with an opportunity to review and comment on the new argument within a specified time frame

- (3) In instances where new information (see Item 1 or 2 above), is provided by the taxpayer during Appeals consideration, the ATCL/AO may offer Rapid Appeals Process (RAP) to resolve the Appeals-ready issues (issues that do not require additional analysis or investigative action).
- For cases where no issues are yet settled (agreed in principle by Appeals and the taxpayer) at the time new information is received, the ATCL/AO will determine if RAP is appropriate for the unsettled issues (no agreement in principle between Appeals and the taxpayer) and ensure the taxpayer is aware of the RAP option. If the taxpayer and LB&I elect to address the issues using RAP, Appeals will retain jurisdiction to resolve those issues. After working the issues via RAP and securing closing or partial agreement forms on the agreed issues, Appeals will release jurisdiction to address the new information or issue. On LB&I-sourced cases where RAP is not being utilized, jurisdiction will be released to address new information or new issues and make a determination.
 - For cases involving unsettled and settled issues at the time new information is received, the ATCL/AO will determine if RAP is appropriate for the remaining issues and ensure the taxpayer is aware of the RAP option. If the taxpayer and LB&I agree to address the issues using RAP, Appeals will retain jurisdiction to work those issues. After working the issues via RAP and securing closing or partial agreement forms on the agreed issues, Appeals will release jurisdiction to address the new information or issue and make a determination.
- (4) For those cases where the taxpayer provides information in response to a question or request from Appeals to clarify or corroborate information contained or referenced in the RAR, Protest, or Rebuttal or makes a new argument (not including new information), the ATCL/AO will promptly send the information package or argument with all supporting information to LB&I, allowing at least 45 days for written review and comment (subject to ex parte requirements). An extension of time can be granted if mutually agreed. See IRM 8.6.1.6.6 , **Taxpayer Raises New Theory or Alternative Legal Argument**, for procedures on retaining jurisdiction. LB&I handles these requests for review of information on a priority basis and makes additional contact with the taxpayer as necessary to perform a complete review of the additional information.
- (5) See IRM 8.6.1.6.7, *Jurisdiction Released*, for procedures on returning a case to the originating function.

Note: The office that has jurisdiction of the case at the time of closing will be responsible for performing the closing procedures.

8.7.11.7
(10-01-2012)
**Tax Computation
Specialist (TCS)
Involvement in Team
Cases**

- (1) Generally, team leader cases are assigned to a Large Case Tax Computation Specialist. For purposes of this subsection, the Large Case Tax Computation Specialist is referred to as the TCS.
- (2) Within 120 days of assignment of the case to the TCS, the TCS completes a thorough review to verify the accuracy and completeness of the RAR tax computations. The review includes creation of a computer accessible file (or

utilization of a computation disk received from Examination) to be used during Appeals consideration of the case to make interim or "what if" computations and to do the final tax computation.

- (3) Promptly discuss and resolve with LB&I any discrepancies discovered between the Examination RAR and Appeals' computations. Bring errors affecting the proposed tax liability to the taxpayer's attention for up-front resolution during the planning conference.
- (4) In addition to handling the largest and most complex international and domestic cases within Appeals, the TCS interacts with corporate taxpayer representatives to resolve issues such as complex depreciation, investment tax credit, future interests, adjustments to capital structure, valuation and cost analysis, and change of accounting methods.
- (5) The TCS may appear as the Government's expert witness giving testimony in court proceedings on the tax effect of controversial tax adjustments in complex corporate tax cases.

8.7.11.8
(09-04-2018)
**ATM Selection of Team
Leader and Team
Members**

- (1) The ATM selects a senior AO who has excellent technical and case management skills to act as team leader.
- (2) After discussion with the team leader, the ATM selects the other members of the team. Appeals Officers' case loads and capabilities are considered when making the selection of team members. Appeals Officers of any grade may be team members.
- (3) Tax Computation Specialists and paraprofessionals can be used as team members in appropriate circumstances.
- (4) The team leader sends all team members a memorandum welcoming them to the team and explaining his/her expectations. It also details the team member's responsibilities. Templates with suggested language is found on the ATCL web site.
- (5) The procedures for mandatory referrals to Appeals Technical Guidance or International are contained at IRM 1.4.28, **Appeals Managers Procedures**.

8.7.11.8.1
(09-04-2018)
**Team Leader
Assignment of Work to
Team**

- (1) Conduct a team orientation meeting to discuss the nature, number and complexity of the issues or cases in the team case work unit.
- (2) With the concurrence of the team leader and team member's ATM, the team leader assigns work to team members commensurate with their grade. This may be by specific issues, by cases, or any other appropriate division of the work.
- (3) Consolidate interrelated issues or problems when assigning issues to avoid overlap.
- (4) After the team members have an opportunity to review the file and their assigned issues, each should determine the need for outside assistance, e.g., valuation, technical advice, information reports, etc. These needs must be identified as early as possible and discussed with the team leader. The requests for assistance are prepared by the AO handling the particular issue and are routed through the team leader for approval.

8.7.11.8.2
(09-04-2018)

Team Member Planning Meeting

- (1) The team discusses tentative target dates and those issues or procedures which may impede the prompt closing of the case and decide the actions necessary to prevent delay.
- (2) It is suggested a separate file be created for each issue. The file should contain all relevant information regarding that issue, such as sections of the Revenue Agent's Report (RAR), engineer's report, conference notes, rough draft supporting statements, etc.
- (3) It is desirable to discuss and agree upon these target dates at the first meeting with the taxpayer. The goal is to set firm dates, agreed to by Appeals and the taxpayer, and to resolve specific issues. Furnish the taxpayer with a list of team members and their respective work assignments. Clearly define the role and authority of the team leader and team members for the taxpayer.
- (4) Apply the aspects of Fast Track Settlement to the team leader case process as a means of efficient resolution.
- (5) The team will discuss and develop a complete list of questions to be addressed by the parties (taxpayer and LB&I) during the pre-conference and taxpayer conference. To comply with the ex parte requirements, a copy of the questions to the LB&I team must be shared with the taxpayer.
- (6) After the planning conference is complete, the team leader will complete the ACDS Electronic Work Plan (See IRM 8.7.11.8.5) incorporating the agreements reached with the taxpayer or his/her representative.
- (7) The team leader is responsible for planning and controlling the progress of the work unit. Although initial responsibility to follow up (requests for corroborating information from taxpayers, requests for information from Headquarters, Justice Department or other sources) lies with the team member assigned that segment of work, the team leader monitors this aspect of the team's actions.
- (8) The team leader must be involved in the case management practices of all team members. This is accomplished by periodic monitoring, issue reviews, mandatory written feedback, if applicable, or other appropriate techniques. Each team member's manager ensures the team member maintains a written activity record which includes the team member's contacts with the taxpayer and all significant actions on the case.

8.7.11.8.3
(09-04-2018)

Pre-Planning Conference Contacts

- (1) When faced with complicated technical issues, contact available resources early. For example, obtain input from Counsel, Headquarters, the Appeals Technical Specialist and/or the taxpayer prior to the pre-conference and planning conference.
- (2) Contact Examination immediately upon case assignment to ensure the Appeals team has access to the entire administrative file on a particular issue for effective discussion at the preconference meeting.
- (3) Contact the Appeals Technical Specialist for a coordinated issue paper or informal advice on any coordinated issue as early as possible.

8.7.11.8.4
(09-04-2018)
**Ongoing
Communications**

- (1) Ongoing communications, whether in the form of conferences between the team or other communications between Appeals and LB&I are encouraged. Open lines of communication greatly expedite the completion of the case when the taxpayer presents new arguments or there are other developments which were not anticipated at the time of the pre-conference meeting. Always keep in mind ex parte communication provisions do apply.
- (2) Return the case to LB&I for consideration if the taxpayer presents new information or evidence. See IRM 8.6.1.6.5 , **Taxpayer Provides New Information**. If Appeals receives a case that is not fully developed and the taxpayer does not provide any new information, attempt to settle the case on factual hazards. The case will not be returned for further development.

8.7.11.8.5
(09-04-2018)
**Team Conference Work
Plan**

- (1) The team conference work plan reflects the long-term plan for completion of the work unit with realistic target dates. The participation of the taxpayer's representative is an integral part of the planning process. Furnish the taxpayer's representative a copy of the plan (consistent with disclosure and privacy statutes). In addition to long-term planning, use the team conference work plan to outline the next quarter's contemplated actions on the work unit, including follow-ups. It should reflect a plan for further actions and not solely serve as a report on work unit status.
- (2) The team leader is responsible for the preparation and development of the work plan, with participation by all team members. In some instances the work plan will be used as the schedule of adjustments.
- (3) The team leader forwards the work plan to his/her ATM for approval within 30 days after the opening conference. Work plans are kept in the local office and available for Area office monitoring.
- (4) The team leader updates the work plan quarterly, or more frequently when warranted, by noting significant progress; new problems encountered and plans for solving them; and any revisions of the overall work plan or target dates, including reasons for such revisions.
- (5) The ACDS electronic work plan will be utilized by the team leader for all Appeals Team Cases. The format of the electronic work plan ensures the following items are addressed:
 - a. Identification of team members;
 - b. A list of unagreed issues and assignments to team members and the corresponding Uniform Issue List (UIL) codes if required;
 - c. Identification of problems or factors that may cause delays and the corresponding action plan;
 - d. A projection of when the initial conferences will be held and the approximate number of conferences that may be required; and
 - e. A realistic estimated completion date for the work unit. This date is determined only after it has been discussed with both the team members and the taxpayer.
- (6) Some of the above items may not be determinable at the date the work plan is first drafted. Add them when reasonably determined as part of the periodic updating of the work plan.
- (7) As soon as practical at the end of each quarter, the team leader prepares a narrative for the manager to include:

- a. Review of significant accomplishments (conferences held, issues settled, etc.);
- b. Procedural and/or administrative problems encountered and proposed solutions;
- c. Problem areas encountered requiring coordination outside the area (Examination, Competent Authority, Engineering, Technical, etc.,) and proposed solutions; and
- d. Actions to be taken in the next quarter, with target dates.

8.7.11.9
(09-04-2018)

Screening Panel Review

- (1) Appeals has precautions in place to safeguard settlement authority on high impact cases.

Issues	Control Measures
• Appeals Coordinated Issues	Review and concurrence by: <ul style="list-style-type: none"> • Technical Guidance • International
• Compliance Coordinated Issues	Review and concurrence
• Emerging Issues	Contact coordinator for input or guidance
• Designated litigating vehicle	Controlled by Chief Counsel

- (2) The screening panel is an additional safety measure by Appeals to safeguard settlement authority on high impact cases by reviewing the case complexity and materiality. The purpose is to determine whether a comprehensive review by multiple ATCLs in a working panel is warranted.
- (3) Factors to be considered by the screening panel will include:
 - Emerging or developing law or procedures
 - Complexity
 - Precedent setting nature
 - Affects many taxpayers or future tax years
 - Whether approval of other IRS/government organizations is required
- (4) Materiality must be considered in judging whether a working panel is warranted by applying Statement of Financial Accounting Concepts No. 2, which indicates "...no general standard of materiality could be formulated to take into account all the considerations that enter into an experienced human judgment."

8.7.11.9.1
(09-04-2018)

Screening Panel Review Procedures

- (1) The cases involve significant:
 - Amounts of money, the tax in dispute will generally be \$10 million or more
 - Number of issues, some of which are highly complex
- (2) Upon receipt of a case, the ATCLTM will consider whether a screening panel is necessary.

- (3) The ATCLTM will assign the case to the ATCL advising that the case may need a screening panel.
- (4) After collaboration with the ATCL, the ATCLTM will make the final decision on whether a working panel is needed.
- (5) The screening panel will be a minimum of two ATCLs and the ATCLTM.
- (6) Selection of the ATCLs will be made by the ATCLTM and may cross ATCL Operations' lines due to resources or ATCL expertise in a specific issue.
- (7) The *Screening Panel Checklist* will be prepared individually or collectively by the screening panel. The ATCLTM and the ATCLs will promote a team approach in preparing the checklist.
- (8) The ATCLTM will review the Screening Panel Checklist from the panel members and make a final determination as to whether a working panel is necessary and which issues will be assigned to the working panel.
- (9) Issues not requiring a working panel will be worked by the ATCL assigned the case.

8.7.11.10
(09-04-2018)
**Working Panel Review
Process**

- (1) The purpose of the working panel is to provide additional resources and viewpoints on complex issues.
- (2) ATCL working panel will provide additional viewpoints and drive high impact issues to resolution. The working panel normally consists of three ATCLs; two may serve by exception with management documentation.
- (3) Consensus decision making will be used by the panel. In the event the panel cannot come to a consensus, the ATCLTM will assist in facilitating a consensus.
- (4) If consensus is not reached, the issue will be resolved by the Director, ATCL Operations.

8.7.11.10.1
(09-04-2018)
**Working Panel Review
Benefits**

- (1) There are many benefits of a working panel that include:
 - ATCLs can help each other resolve issues by sharing knowledge and expertise.
 - Quality will increase as the most experienced personnel will address the most complex issues.
 - Panel members will have an opportunity to work with others from different demographic backgrounds with various expertise.
 - ATCLs can utilize informal peer review of settlement strategies prior to settlement.
 - There's an opportunity to promote teaming concepts and enhance internal controls.
 - The synergies between the competencies of panel members are promoted.
 - Equity is promoted because an individual working panel member will not be able to direct the outcome of settlement.
 - Three or two senior Appeals personnel, rather than a single ATCL will interface with the taxpayer's legal team and Compliance's team.

- (2) Each panel member is responsible for the full scope of the issues before the panel.
- 8.7.11.11
(03-16-2015)
Pre-Conference Meeting
- (1) This text establishes guidelines for conferences (pre-conferences) held between Appeals and LB&I on certain protested cases. The pre-conferences take place prior to Appeals' meeting with the taxpayer. These guidelines are minimum standards for communication between Appeals and LB&I.
- (2) The pre-conference procedures apply to all LB&I cases meeting Appeals' definition of a team case. The procedures may be used for LB&I cases which do not meet the definition of a team case and for other cases upon election by either LB&I or Appeals. For definition of a team case, see Introduction to Working Appeals Team Cases found at the beginning of this IRM.
- 8.7.11.11.1
(03-16-2015)
Purpose of Pre-Conference Meeting
- (1) The purpose of the conference is to discuss the issues, protest, and LB&I's written rebuttal to the protest. A frank discussion of the issues adds to Appeals' knowledge of the case.
- (2) The taxpayer is notified of, and given an opportunity to participate in, any pre-conference in accordance with requirements involving ex parte communications.
- (3) The need for any additional resources, specialists or expert witnesses, etc., are discussed at this meeting which serves to establish lines of communication between Appeals and LB&I that are maintained throughout consideration of the case. Always keep the ex parte communication provisions firmly in mind.
- (4) LB&I is encouraged to share its views on the disputed issues, including its assessment of litigating hazards and the strategies involved in setting up adjustments on particular issues. However, the conference is not used as a vehicle for securing a commitment from Appeals to defend any particular issues, commit to particular settlement positions, or otherwise "negotiate" the settlement posture of Appeals on the case.
- 8.7.11.11.2
(09-04-2018)
Requesting a Pre-Conference Meeting
- (1) Unless an exception is agreed to between LB&I and Appeals, hold a pre-conference on all LB&I cases designated as team leader cases in Appeals. LB&I may request a conference on other LB&I cases. If LB&I does not request a conference on a LB&I case and Appeals believes a conference would be helpful, Appeals may initiate the conference.
- (2) The team leader is responsible for arranging the conference. Conferences on non-team leader cases are arranged by the team leader following a written request to LB&I for the conference or the receipt of a request for a conference.
- (3) An Appeals request for a conference must be signed by a team leader or ATM. A request from LB&I is initiated by the case manager/group manager (or other official as determined by LB&I). A conference request from LB&I should accompany the file when it is received by Appeals. If Appeals desires a conference, make the request as soon as possible after receipt of the case.
- (4) If LB&I and Appeals agree a pre-conference is not useful in any case for which a conference is required, document the file with a memorandum signed by appropriate officials from each function specifying no pre-conference is desired by either LB&I or Appeals. In Appeals, the memorandum must be signed by an ATM or Area Director.

- (5) These procedures do not prohibit conferences on other types of cases; e.g., cases with industry-wide impact, specialized industries or coordinated issues. Neither do they prohibit other communication and discussion of issues between AOs and agents or specialists. Make sure the ex-parte provisions of Rev. Proc. 2012-18, are followed.

8.7.11.11.3
(09-04-2018)
**Who Participates in a
Pre-Conference Meeting**

- (1) The Appeals team usually consists of the team leader and team members assigned to the case. Participation by management is determined by area and local guidelines.
- (2) The LB&I team usually consist of the case manager or group manager, revenue agents, international agents or other specialists as appropriate to the issues in dispute. LB&I determines the involvement of other managers.
- (3) Associate Area Counsel is invited to participate in pre-conferences on all docketed cases. Either LB&I or Appeals may request the participation of Counsel in the pre-conferences on non-docketed cases.
- (4) In accordance with the guidance for ex parte communications, the taxpayer (or representative) is also given an opportunity to participate in the pre-conference meeting. Please see Rev. Proc. 2012-18.

8.7.11.11.4
(10-26-2007)
Rough Draft ACM

- (1) A rough draft ACM is a written document which includes a substantive discussion of the facts and law presented in the RAR and taxpayer's protest.
- (2) Prepare rough draft ACMs on all significant protested issues prior to the first taxpayer conference on that issue. Team members are responsible for finalizing the ACM for their issues.

8.7.11.12
(09-04-2018)
**Partial Agreements on
Team Cases**

- (1) When a partial agreement for work units over \$1 million is secured, additional steps must be taken to close the existing ACDS record with the partial agreement information so Appeals results can be captured timely. Submit a request to APS for a new ACDS record to control the remaining unagreed issues/tax periods. APS instructions for this process are provided in IRM 8.20.6.18.4, *Partial Agreements >\$1 Million on Team Cases*.
- (2) If one tax year was agreed in a multiple-year unit, rather than part of the issues within one tax year, only include the unagreed tax years in the new work unit.
- (3) This procedure applies only to assessable partial agreements. Both a Form 870, **Waiver of Restrictions on Assessment & Collection of Deficiency in Tax & Acceptance of Overassessment**, and a stipulation of agreed issues, entered by the Tax Court, must be secured on docketed cases.
- (4) This procedure may also be used when Appeals settles one or more issues in a case and returns the case to Examination for consideration of new issues raised by the taxpayer or new information or evidence presented by the taxpayer.

8.7.11.12.1
(09-04-2018)

**Review and
Concurrence by
Technical Guidance or
International**

- (1) Review the Lists of Compliance Coordinated Issues and Appeals Coordinated Issues contained on the Appeals web site.
- (2) Make a referral to Appeals Technical Guidance or International following the procedures contained in IRM 1.4.28, **Appeals Manager Procedures** and IRM 8.2.1, **Agreed Pre-90-Day Income Tax Cases**, before scheduling the initial conference on the coordinated issue.
- (3) Advise the taxpayer the issue is coordinated and any settlement of the issue requires the review and concurrence of the Technical Specialist (Technical Guidance or International).
- (4) Forward a rough draft of the ACM (and any related documents requested by the Technical Specialist such as copies of documents, RAR, protest, closing agreements, etc.) to them, whether the Technical Specialist is a team member or not. The Technical Specialist may waive this requirement after discussing the issue with the ATCL/AO.
- (5) Before the settlement is finalized, send the rough draft ACM (and any related documents) to the Technical Specialist for any further guidance.
- (6) Send the Technical Specialist a copy of the portion of the final ACM and Closing Agreement, if any, which discusses the coordinated issue.
- (7) If the Technical Specialist concurs with the proposed disposition of the coordinated issue, note this on Form 5402.
- (8) If the Technical Specialist does not concur with the proposed disposition of the coordinated issue, attach a copy of the Technical Specialist's memorandum (rebuttal) to the ACM. See IRM 8.7.3.4, **Review and Concurrence Procedures**, for procedures on how to resolve the dispute.
- (9) If the coordinated issue is designated for litigation in a specific case by the Office of Chief Counsel do not consider settlement of the issue in the designated case.

8.7.11.13
(09-04-2018)

**Post Settlement
Conference**

- (1) The sole purpose of the post settlement conference is to verbally communicate the resolution of the case to the LB&I team.
- (2) The settlement reached is adequately explained in the ACM, which provides support for the basis on which a work unit is disposed. The final Appeals determination and resolution in the ACM reflect the conclusion reached by the Appeals employee with ultimate responsibility for the case. See IRM 8.6.2.2, *Introduction to Appeals Case Memos (ACMs)*.
 - a. Appeals uploads the final ACM and Form 5402 and related documents in IMS. See listing in IRM 8.7.11.15. Once the case is closed in IMS, the feedback documents are made available to LB&I.
 - b. For pre-IMS and other ATCL cases not in the IMS database, using encrypted e-mail, forward the ACM and related documents to **AP ATCL ACM@irs.gov*.
 - c. For pre-IMS and other non-ATCL cases not in the IMS database, using encrypted e-mail, forward the ACM and related documents to *lbi.acm.distribution@irs.gov*.

- (3) The post settlement conference is not intended to be a critique of the settlement nor is it intended to replace, in any way, LB&I's "dissent" procedures. See IRM 8.6.4.2.10, *Disagreements with Appeals Determinations*. Examples of inappropriate discussion in this context include:
- Inquiries as to why alternative settlement approaches were not used
 - Inquiries as to why more weight wasn't given to a particular document, fact, argument or sub-argument
 - Inquiries as to the weight given to a particular document, fact, argument or sub-argument when the ACM analyzes hazards of litigation on an aggregate or composite basis
 - Inquiries that are hypothetical or open-ended

8.7.11.13.1
(09-04-2018)
**Post Settlement
Conference
Scope**

- (1) Post settlement conferences are only available for cases originating from LB&I and worked by a team leader in Appeals (ATCL or an AO assigned as a team leader). See IRM 8.7.11.3.
- (2) Post settlement conferences can occur at the request of either Appeals or LB&I.
- (3) If both Appeals and LB&I agree that it is not necessary, the post settlement conference can be waived.

8.7.11.13.2
(09-04-2018)
**Post Settlement
Conference
Limitations**

- (1) The Office of Appeals is an independent and impartial forum for both the government and the taxpayer to resolve disputes without litigation, and in doing so, promotes voluntary compliance by demonstrating the fairness and effectiveness of the tax administration system. See IRM 8.1.1.1, *Accomplishing the Appeals Mission*.
- (2) With respect to the prohibition on ex parte communications:
- a. Post settlement conference discussions with respect to the resolution of issues in closed periods (closed by Appeals) do not compromise the independence of Appeals, and thus, may take place without giving the taxpayer/representative an opportunity to participate. See Rev. Proc. 2012-18, Section 2.03 (11).
 - b. Participants must limit discussions to the results in the closed cycle. Any discussion that addresses open cycles either in Examination or Appeals with respect to the same issue/taxpayer or a related taxpayer is subject to the guidance provided in Rev. Proc. 2012-18, relating to prohibitions on communications with the originating function.
- (3) Appeals should not discuss matters pertaining to LB&I's case development in open years (i.e., years not yet considered and closed by Appeals) during a post settlement conference.
- (4) Examples of permissible post settlement conference discussions with respect to open years include:
- Identifying those issues that may be susceptible to resolution by application of LB&I's settlement authority under Delegation Orders 4-24 and 4-25
 - Identifying the amount of loss carryforwards from the Appeals cycle
 - Identifying the basis for future cost recovery (e.g., depreciation or amortization) for items capitalized in the Appeals cycle

- (5) Examples of impermissible post settlement conference discussions with respect to open years include:
 - Inquiries seeking Appeals' advice for future case/issue development
 - Inquiries seeking Appeals' views as to how it would evaluate an issue if additional documents were obtained, additional arguments made, or additional development undertaken

8.7.11.13.3
(09-04-2018)
**Post Settlement
Conference
Requesting the Post
Settlement Conference**

- (1) Before requesting a post settlement conference, the LB&I team and manager should carefully review the relevant ACM. The ACM in a team case thoroughly sets forth the settlement reached and the rationale for it. From the ACM, revenue agents may discern the terms of the settlement and its impact. In rare case where the ACM does not adequately relate the foregoing, a post settlement conference may be requested by the LB&I Team Manager. The request should be routed to the ATCL who worked the case or the ATM of the AO (team leader) who worked the case.
- (2) The request should be made within 45 days of Appeals' closure of the case in IMS, or 45 days from the receipt of the e-mail transmitting the ACM if IMS was not utilized.
- (3) Any request to address specific questions should be made at the time the request for a post settlement conference is made.

8.7.11.13.4
(09-04-2018)
**Post Settlement
Conference
Participants at the Post
Settlement Conference**

- (1) LB&I participants may include the LB&I Team Manager, revenue agents, and others who contributed to the development of the issue including their immediate manager. The LB&I Team Manager, in consultation with the assigned ATCL or team leader, determines the LB&I participants.
- (2) Appeals participants may include the ATCL or team leader, team members and any others who contributed to the resolution of the issue. The manager of any of the Appeals team members may also participate.
- (3) IRS Chief Counsel is invited to attend on all docketed LB&I cases. Counsel may attend post settlement conferences on non-docketed cases at the request of either LB&I or Appeals.
- (4) The ATCL or team leader identifies and discusses with the LB&I Team Manager the need to limit the number of participants in the post settlement conference.

8.7.11.13.5
(09-04-2018)
**Post Settlement
Conference
Nature of Post
Settlement Conference
Discussions**

- (1) Post settlement conference discussions are informal.
- (2) The conference may not be recorded or transcribed.
- (3) Although LB&I may submit written questions in advance of the conference, Appeals responses will generally be communicated orally at the conference.
- (4) Appeals ordinarily will not produce copies of its note made in preparation for or taken at the conference except in its sole discretion.

8.7.11.14
(10-26-2007)
**Final Appeals Case
Memorandum (ACM)
Preparation**

- (1) There are some special features to include in the large or complex case ACM. Because of the complexity of some cases, any or all of the following features may be used:

- a. Table of Contents
- b. Executive Summary
- c. Schedule of Adjustments - with additional features
- d. Complex Issue Discussion and Analysis

Note: The Schedule of Adjustments is not optional; adding special features to the standard Schedule of Adjustments is optional.

8.7.11.14.1
(10-26-2007)
Table of Contents

- (1) If the Schedule of Adjustments doesn't give the page numbers for the issues, use a Table of Contents. The Table of Contents may include the page number from the revenue agent's report, the taxpayer's protest, or other pertinent documents.

Description	ACM Page	RAR Page	Protest Page
Executive Summary	1		
Schedule of Adjustments	3		
Legal Expenses	5	1	4

8.7.11.14.2
(09-04-2018)
Executive Summary

- (1) For a lengthy ACM with numerous issues, an Executive Summary provides a reader with an overview of all information up front.
- (2) The Executive Summary is similar to a Summary and Recommendation for an issue; both are brief and up front. In fact, the Executive Summary is the first page(s) of a large or complex case ACM. It may include:
- a. Background of the taxpayer, industries, foreign sub/parent, products, name changes, stock exchange listing, mergers and acquisitions, etc. If the information to present is lengthy or complex, make the background a separate section.
 - b. The most significant issues and results.
 - c. Joint Committee jurisdiction or consideration.
 - d. Collection Concerns – accounts receivable dollar inventory (ARDI) considerations
 - e. Audit history – prior litigation of the taxpayer, rollover or recurring issues, results of other cycles, carry backs that affect retention rates, etc.
 - f. Technical Guidance/International – identification of issues, approval, variances from written positions, etc.
 - g. External assistance – technical advice (formal and informal), competent authority, etc.
 - h. Future years – potential claims, closing agreements, letters of understanding.
 - i. Provide a discussion of the factors impacting the settlement that occurred subsequent to LB&I completing its consideration, or that are outside the Appeals hazards evaluation. For instance, a change in tax law, new controlling case law, or a whipsaw issue that had to be conceded. These type

issues need to be noted as items that would have required adjustments to be made by Examination, or in other words, the adjustments would not be the result of an Appeals hazard settlement.

8.7.11.14.3
(09-04-2018)
**Schedule of
Adjustments**

- (1) The basic format of the Schedule of Adjustments for large or complex cases is the same, but there may be a need to add "Additional Features." If the additional columns won't fit on the page, show the schedule in landscape format to accommodate the extra columns. Here is a list of some items to use in the schedule in addition to those in the standard Schedule of Adjustment:
 - a. Team member name listed next to their assigned issues is optional.
 - b. Page references to the RAR, protest, and ACM are optional but are helpful and often part of a work plan.
 - c. Identification of Technical Guidance/International coordinated issues where applicable. If no Technical Guidance/International issues exist in the case, this column is not needed. However, make an affirmative statement to this effect as a footnote on the Schedule of Adjustments.
 - d. Indicate rollover or recurring issues with a "yes" or "no", to alert Examination of their settlement authority under Delegation Order 4-25. Make a complete statement about the delegation authority in the Summary and Recommendation section of the issue discussion. If no rollover or recurring issues exist for a particular case no column is needed, however, make an affirmative statement to this effect as a footnote on the Schedule of Adjustments.
- (2) If the schedule is developed when the case is first assigned, it can serve as the basis for the issue status schedule in the large case work plan.

8.7.11.14.4
(10-26-2007)
**Complex Issue
Discussion**

- (1) The four sections of an ACM: Summary and Recommendation, Brief Background, Discussion and Analysis, and My Evaluation, work for even the most complex of cases. The complexity of the issue dictates the length and structure of the longer narrative. The following sections give some guidance in preparing your ACM.

8.7.11.14.4.1
(10-01-2012)
**Summary and
Recommendation**

- (1) Prior ACM – Many LB&I subsequent cycles have identical issues. If they are resolved on the same basis as the prior cycle, then it's appropriate to cite the prior ACM rather than repeat the discussion in detail. If such a reference is made, attach a copy of the prior ACM. The Summary and Recommendation section may then be all that is needed in the current ACM.
- (2) Examination Settlement Authority – If Exam DO 4-25 is applicable to the issue for subsequent cycles, make a complete statement about the delegation authority in this section.
- (3) Combining Issues - LB&I cases may involve issues that need to be discussed together. If so, combine the discussion into one section.

8.7.11.14.4.2
(10-26-2007)
Discussion and Analysis

- (1) This is the main section for a detailed discussion of any issue. Along with the Schedule of Adjustments and the initial framing of the issue, this section serves as the rough draft ACM. Make this section clear and concise by providing yourself and the reader with a blueprint or outline of the discussion to follow. In a complex issue discussion, good structure is essential.

8.7.11.14.4.3
(10-26-2007)
My Evaluation

- (1) After a lengthy issue discussion, this section serves as a recap of the relevant factors and the weight assigned to each. This analysis clearly illustrates the settlement rationale and is particularly important on complex issues and those with hazards of litigation settlements.

8.7.11.15
(09-04-2018)
Closing Team Cases

- (1) At the conclusion of an LB&I case worked in IMS, the team leader will upload the following documents in IMS:
 - Form 5402
 - Schedule of Adjustments
 - ACM
 - Computations and audit statement
 - Agreement forms and/or closing agreements
 - BNA files
 - Form 5403 Worksheet
 - Forms 2285
 - LIN Link and amended tax returns
 - Sequa Worksheets

Note: If Exam did not upload the RAR and 30-Day Letter, the team leader will upload these documents.

- (2) At the conclusions of a case not worked in IMS, the ATCL uses encrypted e-mail to forward a copy of the final ACM and related documents to Outlook e-mail address, *AP ATCL ACM@irs.gov.
- (3) A central point of contact designated by the Director, ATCL Operations, maintains the Outlook mailbox. This individual uses encrypted e-mail to forward copies of the ACM, Form 5402 and related documents to the LB&I mailbox.

8.7.11.16
(09-04-2018)
Docketed Cases

- (1) These procedures are used for docketed cases. LB&I is not expected to review and comment on the taxpayer's petition before receipt of the case by Appeals. However, Appeals must provide LB&I with a copy of the petition for review and comment in every docketed case to which these procedures apply. LB&I reviews the petition to the extent LB&I has knowledge of the facts and issues in dispute.
- (2) A key part of the pre-conference meeting is planning the timetables and resources needed to respond to new information presented by the taxpayer. Give recognition to the time frames established by the rules of the Tax Court in setting priorities for the examination of new information and response to taxpayer positions. For limitations and procedures concerning Appeals and LB&I consideration of new issues raised in docketed cases, see IRM 8.4.1.4, **Appeals Authority Over Docketed Cases**.

8.7.11.17
(10-26-2007)
**Evaluation of Team
Members' Performance**

- (1) The team case leader gives appropriate feedback on team member performance, in a timely manner, to both the team members and their managers. The feedback is a meaningful evaluation of the performance of the particular team member on the case. The feedback is structured around the critical elements of the team member, to the extent they apply to the work done on the case.

- (2) The feedback is given on an on-going basis and no later than when a team member's work on the case is substantially completed; for example at the completion of conference activities or at the time the team member prepares the ACM on his or her assigned issues. At a minimum, interim or final feedback is provided prior to the team member's annual appraisal and mid-year review.
- (3) The ATM of the team member, not the team case leader or team, is responsible for appraising the performance of AOs on team case assignments. Although the team leader must provide mandatory written feedback on the case, any written assessments of members' work performance for purposes of personnel actions is made by the manager.
- (4) When an AO below the level is given a developmental team member assignment, the team leader gives timely oral feedback and provides constructive comments regarding performance.