



# MANUAL TRANSMITTAL

Department of the Treasury  
Internal Revenue Service

4.10.20

JULY 16, 2024

## EFFECTIVE DATE

(07-16-2024)

## PURPOSE

- (1) This transmits revised IRM 4.10.20, Examination of Returns, Requesting Audit, Tax Accrual or Tax Reconciliation Workpapers.

## MATERIAL CHANGES

- (1) IRM 4.10.20.1, Program Scope and Objectives, updated policy owner, program owner, added primary stakeholders.
- (2) Added the following subsections:
  - a. IRM 4.10.20.1.1, Background
  - b. IRM 4.10.20.1.2, Responsibilities
  - c. IRM 4.10.20.1.3, Program Management and Review
  - d. IRM 4.10.20.1.4, Program Controls
- (3) IRM 4.10.20.1.6, Acronyms, added Tax Accrual Workpapers (TAW) to acronym list.
- (4) IRM 4.10.20.1.7, Related Resources, updated and moved content from IRM 4.10.20.1 to this new subsection.
- (5) IRM 4.10.20.3.2, Requests for Tax Accrual Workpapers Involving Listed Transactions, moved part of paragraph (1) to IRM 4.10.20.1.1, Background.
- (6) IRM 4.10.20.4, Procedure for Requesting Audit and/or Tax Accrual Workpapers, added link to the Virtual Library reference.
- (7) Updated website addresses and hyperlinks.
- (8) Editorial changes made throughout.

## EFFECT ON OTHER DOCUMENTS

IRM 4.10.20 dated December 8, 2020 is superseded.

## AUDIENCE

LB&I, SB/SE, and TE/GE examiners, as well as IRS Independent Office of Appeals (Appeals) employees

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Large Business and International Division



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4.10.20

Requesting Audit, Tax Accrual or Tax Reconciliation Workpapers

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4.10.20.1  
(07-16-2024)  
**Program Scope and  
Objectives**

- (1) **Purpose:** This IRM states the policy and guidelines that examiners must use when requesting taxpayer workpapers, such as:

- Audit workpapers
- Tax accrual workpapers (TAW)
- Tax reconciliation workpapers

Publicly traded corporations and other large collectively owned entities typically use these types of workpapers. The IRS has different policies for seeking access to each of these types of documents.

- (2) **Audience:** The primary users of this IRM are examiners in all divisions, Appeals officers and attorneys.

**Note:** These provisions do not apply in cases being investigated by Criminal Investigation.

- (3) **Policy Owner:** Assistant Deputy Commissioner Compliance Integration

- (4) **Program Owner:** LB&I Policy Office

- (5) **Primary Stakeholders:** Office of Tax Shelter Analysis (OTSA), LB&I

4.10.20.1.1  
(07-16-2024)  
**Background and  
Authority**

- (1) The IRS' policy of restraint with respect to tax accrual workpapers relates to its commitment to increased transparency, fostering tax compliance, enhanced relationships with taxpayers, avoiding controversy and concerns around waivers of attorney-client privilege.
- (2) The IRS' policy of restraint goes back to 1984. Although the Supreme Court recognized the IRS's right to obtain tax accrual workpapers in *United States v. Arthur Young & Co.*, 465 U.S. 805 (1984), the IRS announced that it would continue its policy of restraint and would not request tax accrual workpapers as a standard examination technique. See Announcement 84-46, 1984-18 IRB 18.
- (3) In 2002, the IRS modified its policy of restraint with respect to tax accrual workpapers. In general, the modified policy applies to returns filed by taxpayers claiming benefits from listed transactions. (Announcement 2002-63, 2002-27 IRB 72). The policy of restraint is in line with Sarbanes-Oxley legislation related to corporate financial reporting from 2002, and FIN 48 (now ASC 74010) issued in 2006.
- (4) In Announcement 2010-76, 2010-41 IRB 432, the IRS expanded the policy "in connection with its decision to require certain corporations to file Schedule UTP."

4.10.20.1.2  
(07-16-2024)  
**Responsibilities**

- (1) The Assistant Deputy Commissioner for Compliance Integration (ADCCI) oversees Compliance Planning and Analytics (CP&A). See IRM 1.1.24.2.1, Assistant Deputy Commissioner Compliance Integration. The Office of Tax Shelter Administration (OTSA) is part of CP&A and gathers information on reportable transactions, which includes listed transactions, for LB&I.

- 4.10.20.1.3  
(07-16-2024)  
**Program Management and Review**
- (1) This IRM relates to the LB&I examination process, specifically the information document request (IDR) issuance and enforcement process. See IRM 4.46, LB&I Examination Process, and IRM 4.46.4.7, Information Document Request Process, for more information.
- 4.10.20.1.4  
(07-16-2024)  
**Program Controls**
- (1) The case manager monitors the overall case progress and supports the issue manager with IDR enforcement. The IDR process is crucial in properly exercising the policy of restraint with respect to tax accrual workpapers.
- 4.10.20.1.5  
(07-12-2004)  
**Definitions**
- (1) **Tax Reconciliation Workpapers** Tax reconciliation workpapers are used in assembling and compiling financial data in preparation for placement on a tax return. These workpapers typically include final trial balances for each entity and a schedule of consolidating and adjusting entries. They include information used to trace financial information to the tax return. Any tax return preparation documents that reconcile net income per books or financial statements to taxable income are also tax reconciliation workpapers. Tax reconciliation workpapers do not become tax accrual workpapers when they are used in the preparation of tax accrual workpapers or are attached to tax accrual workpapers. Preexisting documents that a taxpayer, the taxpayer's accountant, or the taxpayer's independent auditor consults, refers to, or relies upon in making evaluations or decisions regarding the tax reserves or in performing an audit are not themselves considered tax accrual workpapers or audit workpapers, even though the taxpayer, the taxpayer's accountant, or independent auditor may store such documents with the tax accrual workpapers or audit workpapers.
- (2) **Tax Accrual Workpapers (TAW)** The term "tax accrual workpapers" refers to those audit workpapers, whether prepared by the taxpayer, the taxpayer's accountant, or the independent auditor, that relate to the tax reserve for current, deferred and potential or contingent tax liabilities, however classified or reported on audited financial statements, and to footnotes disclosing those tax reserves on audited financial statements. These workpapers reflect an estimate of a company's tax liabilities and may also be referred to as the tax pool analysis, tax liability contingency analysis, tax cushion analysis, or tax contingency reserve analysis. The name given the workpapers by the taxpayer, the taxpayer's accountant, or the independent auditor is not determinative.
- a. Tax accrual workpapers typically include determinations and related documentation of estimates of potential or contingent tax liabilities related to tax positions taken by the taxpayer on certain transactions. In addition, there may be an audit trail and/or complete explanation of the transactions. There may also be information on whether there was reliance on outside legal advice; an assessment of the taxpayer's position and potential for sustention; references to promotional materials; and comments on unwritten agreements, confidentiality agreements, restitution agreements, contingency fees, expectations, and other material facts surrounding the transactions. The workpapers may include documents written by the taxpayer's employees and officers describing or evaluating the tax strategies. The scope and quality of the workpapers will vary.
- b. The total amount of the reserve established on a company's general ledger for all contingent tax liabilities of the company for a specific reporting period is not considered a part of the company's tax accrual workpapers. An examiner may ask a taxpayer about the existence and the total amount of a reserve for all contingent tax liabilities as a matter

of routine examination procedure, without a showing of unusual circumstances and without seeking executive approval for the request.

- c. A request to reveal the existence or amount of a tax reserve established for any specific known or unknown transaction, however, is the same as asking for a description of a portion of the contents of the tax accrual workpapers. Requests for a description of the contents of the tax accrual workpapers are covered by the same policy of restraint as requests for the actual documents that make up the tax accrual workpapers.

- (3) **Audit Workpapers** These are workpapers created by or for the independent auditor. They are retained by the independent auditor and may be shared with the taxpayer. These workpapers include information about the procedures followed, the tests performed, the information obtained, and the conclusions reached pertinent to the independent auditor's review of a taxpayer's financial statements. Audit workpapers may include work programs, analyses, memoranda, letters of confirmation and representation, abstracts of company documents, and schedules or commentaries prepared or obtained by the auditor. These workpapers provide important support for the independent auditor's opinion as to the fairness of the presentation of the financial statements, in conformity with generally accepted auditing standards and generally accepted accounting principles.

## 4.10.20.1.6 (07-16-2024) Acronyms

- (1) The table below lists commonly used acronyms and their definitions:

Acronym	Definition
CFR	Code of Federal Regulations
IDR	Information Document Request
OTSA	Office of Tax Shelter Analysis
P&A	Associate Chief Counsel (Procedure and Administration)
TAW	Tax Accrual Workpapers
UTP	Uncertain Tax Position

## 4.10.20.1.7 (07-16-2024) Related Resources

- (1) TAW Virtual Library reference: [https://irs.gov.sharepoint.com/sites/ETD-KMT-KB051/SitePages/LBIExamProcedures/PlanningTheExam/RelatedTechnicalWebsitesTAW.aspx](https://irs.gov/sharepoint.com/sites/ETD-KMT-KB051/SitePages/LBIExamProcedures/PlanningTheExam/RelatedTechnicalWebsitesTAW.aspx)

## 4.10.20.2 (05-04-2017) IRS Policy for Requesting Tax Reconciliation Workpapers

- (1) Tax reconciliation workpapers should be requested as a routine matter at the beginning of an examination. Ordinarily, tax reconciliation workpapers are prepared and provided by the taxpayer. If these workpapers are unavailable from the taxpayer, access will be sought from the taxpayer's accountants.
- (2) Taxpayers may redact the following information from any copies of tax reconciliation workpapers relating to the preparation of Schedule UTP, Uncertain Tax Position Statement:

- a. Working drafts, revisions, or comments concerning the concise description of tax positions reported on Schedule UTP;
- b. The amount of any reserve related to a tax position reported on Schedule UTP; and
- c. Computations determining the ranking of tax positions to be reported on Schedule UTP or the designation of a tax position as a major tax position.

Other than requiring the disclosure of information on the Schedule UTP, the requirement to file Schedule UTP does not affect the policy of restraint.

4.10.20.3  
(12-08-2020)  
**IRS Policy for  
Requesting Audit or Tax  
Accrual Workpapers**

- (1) The general standard for requests for audit or tax accrual workpapers is the unusual circumstances standard, see IRM 4.10.20.3.1. This standard applies to all requests for audit workpapers and requests for tax accrual workpapers that do not involve a listed transaction as defined in 26 CFR 1.6011-4. For the standard on requesting tax accrual workpapers involving a listed transaction, see IRM 4.10.20.3.2.

4.10.20.3.1  
(07-12-2004)  
**Unusual Circumstances  
Standard**

- (1) In unusual circumstances (as defined in paragraph (2) below), the IRS may request audit or tax accrual workpapers. Examiners should keep in mind that the taxpayer's records are the primary source of factual data to support the tax return. Audit or tax accrual workpapers should normally be sought only when such factual data cannot be obtained from the taxpayer's records or from available third parties, and then only as a collateral source for factual data. Audit or tax accrual workpapers should be requested with discretion and not as a matter of standard examining procedure. This request should generally be made first to the taxpayer, but may be directed to the taxpayer, the taxpayer's accountant, the independent auditor, or all three, based on the IRS's determination as to the location of the workpapers sought. The request should be limited to the portion of the workpapers that is material and relevant to the examination. Whether an item is considered to be material is based upon the examiner's judgment and an evaluation of the facts and circumstances of the case.
- (2) Unusual circumstances for this purpose exist under the following conditions:
  - a. A specific issue has been identified by the examiner for which there exists a need for additional facts;
  - b. The examiner has sought from the taxpayer and available third parties all of the facts known to them relating to the identified issue;
  - c. The examiner has sought a supplementary analysis (not necessarily contained in the audit or tax accrual workpapers) of facts relating to the identified issue; and
  - d. The examiner has performed a reconciliation of the taxpayer's Schedule M-1 or M-3 as it pertains to the identified issue.

4.10.20.3.2  
(07-16-2024)  
**Requests for Tax  
Accrual Workpapers  
Involving Listed  
Transactions**

- (1) A listed transaction is defined in 26 CFR 1.6011-4, and subsection (b)(2) defines listed transactions to include substantially similar transactions. The policy governing requests for tax accrual workpapers involving listed transactions varies according to when the tax return was filed.
- (2) If a listed transaction was properly disclosed on the return, in the manner prescribed by 26 CFR 1.6011-4, the IRS will routinely request tax accrual workpapers that pertain only to the listed transaction for the year under exami-



nation. In these circumstances, the IRS may also request tax accrual workpapers pertaining to the disclosed listed transaction for a year(s) not under examination, if such workpapers may be directly relevant to the IRS's audit for the year under examination, such as those described in paragraph (4).

- (3) If, however, a listed transaction was not timely and properly disclosed in the manner described by 26 CFR 1.6011-4, the IRS will routinely request all tax accrual workpapers for the year under examination. In these circumstances, the IRS may also request tax accrual workpapers for years not under examination, if such workpapers may be directly relevant to the IRS's audit of any known listed transactions for the year(s) under examination.
- (4) As a discretionary matter, all tax accrual workpapers for the year under examination will be requested if:
  - a. The IRS determines that the taxpayer claimed tax benefits from multiple listed transactions that were all properly disclosed; or
  - b. In connection with the examination of a return claiming tax benefits from a single listed transaction that was disclosed, there are reported financial irregularities with respect to the taxpayer.

**Note:** In either of these circumstances, the IRS may also request tax accrual workpapers pertaining to the known listed transactions or the reported financial irregularities for years not under examination if such workpapers may be directly relevant to the audit for the years under examination. There may be reported financial irregularities where the benefit from a listed transaction, disclosed on the return, does not reconcile to the related tax accrual in the underlying financial statements.

- (5) The term "as a discretionary matter" as used in this section of the IRM denotes the exercise of prudence in executing policies. Wherever this term is used within this section of the IRM, the presumption is that the IRS will request all tax accrual workpapers. There may be rare instances in which requesting all workpapers might not be appropriate. For example, if the taxpayer fully concedes the issues, including penalties, pertaining to all listed transactions and the parties have executed a Form 906, Closing Agreement on Final Determination Covering Specific Matters, with respect to the issues conceded by the taxpayer, then it may be appropriate not to seek all of the tax accrual workpapers.
- (6) If there is an exceptional situation where the examiner believes it is not appropriate to pursue all of the tax accrual workpapers, approval not to request all of the workpapers would be required. For LB&I cases, the approval by the Director, Field Operations, LB&I is required. For SB/SE cases, approval by the Area Compliance Director, with the concurrence of the Director of Compliance Policy, SB/SE is required. For TE/GE cases, approval by the Director, EO Examinations; the Director, EP Examinations; or the Director, Government Entities is required.
- (7) If a transaction becomes a listed transaction, within the definition in 26 CFR 1.6011-4, subsequent to the filing of a tax return, the tax accrual workpapers will be requested, so long as at the time of the request the transaction is a

listed transaction. Some listing notices contain effective dates which should also be considered in determining whether a transaction is listed. The examiner should work with Field Counsel to make these determinations.

4.10.20.4  
(07-16-2024)

**Procedure for  
Requesting Audit and/or  
Tax Accrual Workpapers**

- (1) Upon determining that a request for audit and/or tax accrual workpapers should be made, the examiner will prepare an Information Document Request (IDR) for the workpapers. The examiner should work with Field Counsel in preparing the IDR. In all cases potentially involving requests and summonses for Audit and/or Tax Accrual Workpapers, Field Counsel will coordinate the case with Headquarters. Procedures for coordinating the review of IDRs are outlined in IRM 4.10.20.4.(3). Procedures for coordinating the review of summonses are outlined in IRM 4.10.20.4.1.1, and IRM 4.10.20.4.1.2. Coordination with Counsel will be treated as a high priority matter by Counsel so as not to delay the examination.
  - a. For a request under the unusual circumstances standard (IRM 4.10.20.3.1), any National Office Counsel review through the Associate Chief Counsel (Procedure and Administration) (P&A) will, in general, be completed no later than fourteen days after coordination with P&A occurs.
  - b. For a request involving a listed transaction (IRM 4.10.20.3.2), any National Office Counsel review through P&A will, in general, be completed no later than seven days after coordination with P&A occurs. Sample IDR language for requests involving listed transactions is available at <https://irs.gov.sharepoint.com/:w:/r/sites/ETD-KMT-KB051/>.
- (2) Any IDR for audit or tax accrual workpapers should contain a request that, in the event a taxpayer or third party does not produce a document requested by the IDR, the taxpayer or third party should provide the examiner with a description of the document being withheld, including the number of pages contained in the document, and the specific reason why the document is not being provided in response to the IDR. If a document is not produced based on a claim of privilege, the taxpayer or third party should provide the examiner with a detailed privilege log. However, if the taxpayer or a third party to whom an IDR is issued fails to provide (or unreasonably delays providing) the requested descriptions of documents being withheld and/or the requested detailed privilege log for any privilege being claimed, the examiner should promptly issue an appropriate summons, as described in IRM 4.10.20.4.1, Issuance of Summonses, requesting all withheld workpapers.
- (3) Before an IDR for these workpapers is issued, review or approval must occur.
  - a. For requests under LB&I's **unusual circumstances standard**, approval must be obtained from the Director, Field Operations, LB&I. For SB/SE cases, approval must be obtained from the Area Compliance Director, with the concurrence of the Director of Compliance Policy, SB/SE. For TE/GE cases, approval must be obtained from the Director, EO Examinations; the Director, EP Examinations; or the Director, Government Entities
  - b. For requests **involving listed transactions**, the team manager in LB&I cases, or group manager in SB/SE and TE/GE cases, must review any IDR requesting tax accrual workpapers.
- (4) The examiner should follow IRM Exhibit 4.46.4-1, Requirements for Issuing IDRs, and IRM Exhibit 4.46.4-2, IDR Enforcement Process.

4.10.20.4.1  
(05-04-2017)  
**Issuance of Summonses**

- (1) The standards and procedures for issuing a summons will differ depending upon whether the request for workpapers was made under the unusual circumstances standard (see IRM 4.10.20.3.1) or involved a listed transaction (see IRM 4.10.20.3.2).

4.10.20.4.1.1  
(12-08-2020)  
**Summonses for Audit or  
Tax Accrual Workpapers  
Under the Unusual  
Circumstances Standard**

- (1) If it is necessary to issue a summons to secure audit or tax accrual workpapers under the unusual circumstances standard, the examiner should ensure that the burden of compliance with the summons will not be unreasonable. The summons should provide a specific and clear description of the records demanded so that the summoned party can reasonably be expected to identify the exact records sought. The summons must also identify the particular taxpayer for which the documents are sought, the period covered, and the nature of the documents. Unless the examiner determines that all of the workpapers are material and relevant, the summons should identify and request only those documents relating to the specific matters under consideration. Finally, the summons should specify whether it seeks audit or tax accrual workpapers, or both.
- (2) In LB&I cases, prior approval for the issuance of summonses for audit or tax accrual workpapers must be obtained from the Director, Field Operations, LB&I. In SB/SE cases, prior approval for the issuance of such summonses must be obtained from the Area Compliance Director, with the concurrence of the Director of Compliance Policy, SB/SE. In TE/GE cases, approval for such requests must be obtained from the Director, EO Examinations; the Director, EP Examinations; or the Director, Government Entities.
- (3) Prior to issuance, a summons for audit or tax accrual workpapers accompanied by a statement of applicable facts and circumstances will be submitted to Field Counsel for review and comment. Pre-issuance approval is required from P&A (and possibly from the Deputy Chief Counsel (Operations)) under CC Notice 2016-009 and CCDM 34.6.3.6.1. Division Counsel approval is required before Field Counsel may submit any formal request for assistance to P&A via Technical Services Support Assignments, or before submitting any summons enforcement referral letter to P&A for review and approval. Field counsel will coordinate with a Special Counsel in Headquarters, who will further coordinate the approval of the Division Counsel. Coordination with Counsel will be treated as a high priority matter by Counsel so as not to delay the examination. National Office Counsel review of the summons will, in general, be completed no later than fourteen days after coordination with P&A occurs. The approval process is as follows:
  - a. Field Counsel will provide the Special Counsel with a detailed memorandum describing why the tax accrual workpapers are necessary to Examination's development of the case and how the particular case meets the unusual circumstances exception.
  - b. If Division Counsel concurs with Field Counsel's request, Division Counsel will forward a memorandum to the Associate Chief Counsel (P&A) for P&A's consideration and approval.
- (4) Field Counsel will review the summons to ensure that the summons is appropriately drafted and meets all legal requirements. The summons should be directed to the taxpayer, the taxpayer's accountant, the independent auditor, or all three, based on a determination as to the location of the workpapers.

4.10.20.4.1.2  
(12-08-2020)

**Summonses for Tax  
Accrual Workpapers  
Involving Listed  
Transactions**

- (1) The examiner must prepare a summons for workpapers that are not produced in response to an IDR.
- (2) When the examiner prepares a summons for the workpapers, a statement of the facts and circumstances should also be prepared. The records sought must be described with reasonable certainty. The requirement of reasonable certainty will be satisfied if the description of the records is specific and clear and the summoned party can reasonably be expected to identify the exact records sought. The summons must include the identification of the particular taxpayer for which the documents are sought, the period the documents cover, and the nature of the documents.
- (3) For LB&I cases, pre-issuance review of summonses for tax accrual workpapers must be obtained from the Director, Field Operations, LB&I. For SB/SE cases, pre-issuance review of summonses must be obtained from the Area Compliance Director, with the concurrence of the Director of Compliance Policy, SB/SE. For TE/GE cases, pre-issuance review of summonses must be obtained from the Director, EO Examinations; the Director, EP Examinations; or the Director, Government Entities.
- (4) The examiner will work with Field Counsel to prepare the summons. Pre-issuance approval is required from P&A (and possibly the Deputy Chief Counsel (Operations)) under CC Notice 2016-009 and CCDM 34.6.3.6.1. Division Counsel approval is required before Field Counsel may submit any formal request for assistance to P&A via Technical Services Support Assignments, or before submitting any summons enforcement referral letter to P&A for review and approval. Field Counsel will coordinate with a Special Counsel in Headquarters, who will further coordinate the approval of the Division Counsel review of the summons through the appropriate Division Counsel and P&A. Coordination with Counsel will be treated as a high priority matter by Counsel so as not to delay the examination. Any National Office Counsel review of the summons will, in general, be completed no later than seven days after coordination with P&A occurs.
  - a. Field Counsel will provide the Special Counsel with a detailed memorandum describing why the tax accrual workpapers are necessary to Examination's development of the case and how the particular case falls within the listed transaction exception to the IRS's policy of restraint.
  - b. If Division Counsel concurs with Field Counsel's request, Division Counsel will forward a memorandum to the Associate Chief Counsel (P&A) for P&A's consideration and approval.
- (5) Field Counsel will review the summons to ensure it is appropriately drafted and meets all legal requirements. The summons should be directed to the taxpayer, the taxpayer's accountant, the independent auditor, or all three, based on a determination as to the location of the workpapers.

4.10.20.4.2  
(12-08-2020)

**Enforcement of  
Summonses**

- (1) If the summoned party does not comply with the summons, the examiner will refer the matter to Counsel for enforcement of the summons, following a consultation with the Director, Field Operations, LB&I, for LB&I cases; or, for SB/SE cases, following a consultation with the Area Compliance Director, with the concurrence of the Director of Compliance Policy, SB/SE; or for TE/GE cases, following consultation with the Director, EO Examinations; the Director, EP Examinations; or the Director, Government Entities.

- a. For summonses involving listed transactions and requests for tax accrual workpapers, the summons enforcement letter will be approved by the Deputy Chief Counsel (Operations) after coordination with, and pre-review by, the responsible Division Counsel and P&A.
- b. For all other summonses seeking tax accrual or other audit workpapers, the summons enforcement letter must be coordinated with, and pre-reviewed by, the responsible Division Counsel and P&A.

