



MANUAL TRANSMITTAL

Department of the Treasury
Internal Revenue Service

4.23.15

JANUARY 9, 2025

EFFECTIVE DATE

(01-09-2025)

PURPOSE

- (1) This transmits revised IRM 4.23.15, Employment Tax - Technical Advice From the Office of Chief Counsel.

MATERIAL CHANGES

- (1) This IRM was revised to reflect the following changes:

Number	SUBSECTION	CHANGE
1.	IRM 4.23.15.1.2	Updated paragraph (3) due to the reorganization that resulted in one Deputy Commissioner.
2.	IRM 4.23.15.1.4	Revised the subsection title to "Program Management and Review" to be consistent with IRM 1.11.2.2.4, Address Management and Internal Controls. Updated paragraph (1) for clarity. Added paragraphs (4) and (5) that were previously in IRM 4.23.15.1.5.
3.	IRM 4.23.15.1.5	Moved existing content to IRM 4.23.15.1.4 paragraphs (4) and (5). Retitled the subsection to "Program Controls." Added information that document the reviews and quality assurance activities associated with the Employment Tax Program to be consistent with IRM 1.11.2.2.4, Address Management and Internal Controls.
4.	IRM 4.23.15.1.7	Updated paragraph (1) due to the reorganization that resulted in the name change of Wage and Investment to Taxpayer Services. Updated for clarity and website addresses paragraphs (2), (3), and (5). Added paragraph (6) that provides the responsibility for civil penalty programs is assigned to Office of Servicewide Penalties (OSP).
5.	IRM 4.23.15.5	Moved the last two items in paragraph (4) bullet list to their own paragraphs within this subsection after paragraph (4).

- (2) Replaced URL/web address to internal sites with a hyperlink.
- (3) Editorial, typographical, and technical changes have been made throughout this section. Organization titles and symbols were updated.

EFFECT ON OTHER DOCUMENTS

IRM 4.23.15 dated April 4, 2023, is superseded.

AUDIENCE

This section contains instructions and guidelines for all LB&I, TE/GE, and SB/SE employees when dealing with employment tax issues.

Daniel R. Lauer
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Small Business/ Self-Employed Division

4.23.15

Technical Advice From the Office of Chief Counsel

Table of Contents

4.23.15.1 Program Scope and Objectives

4.23.15.1.1 Background

4.23.15.1.2 Authority

4.23.15.1.3 Roles and Responsibilities

4.23.15.1.4 Program Management and Review

4.23.15.1.5 Program Controls

4.23.15.1.6 Acronyms

4.23.15.1.7 Related Resources

4.23.15.2 Request Procedures — Initiating Employment Tax Technical Advice

4.23.15.2.1 Pre-Submission Conferences

4.23.15.2.2 Submitting the Request for Technical Advice

4.23.15.2.3 Use of Status Code “14” on Employment Tax Cases Waiting for Headquarters or Counsel
Guidance

4.23.15.3 Taxpayer Conferences

4.23.15.4 Differences of Opinion Between Directors and Associate Chief Counsel Office

4.23.15.5 Coordination of Employment Tax Rulings With Social Security Administration

4.23.15.1
(01-02-2020)
Program Scope and Objectives

- (1) **Purpose:** This section explains the steps to take when seeking formal technical advice (Technical Advice Memorandum (TAM)) from the Office of Chief Counsel. Requesting technical advice is appropriate when the application of the law to the facts involved is unclear.
- (2) **Audience:** This section contains instructions and guidelines for all Large Business & International (LB&I), Tax Exempt/Government Entities (TE/GE), and Small Business/Self-Employed (SB/SE) employees dealing with employment tax issues.
- (3) **Policy Owner:** Director, Specialty Exam Policy of SB/SE.
- (4) **Program Owner:** Program Manager - Employment Tax Policy. The mission of Employment Tax Policy is to establish effective policies and procedures and to support compliance with employment tax laws.
- (5) **Primary Stakeholders:**
 - Employment Tax – Workload Selection and Delivery (SE:S:DCE:HQ:ECS:S:ETEGCS:EWSD)
 - Specialty Examination - Employment Tax (SE:S:DCE:E:SE:ET)
 - Specialty Exam Policy, Employment Tax Policy (SE:S:DCE:E:HQ:SEP:EMTP)
 - Other areas that are affected by these policies and procedures include Independent Office of Appeals, Counsel, SB/SE Examination, LB&I, and TE/GE.

4.23.15.1.1
(01-02-2020)
Background

- (1) Technical questions arising in employment tax cases involving the interpretation and application of tax laws, regulations, or other precedent published by the Department of Treasury to a specific set of facts should be referred to the Office of Chief Counsel. A request for technical advice must include the facts, the issues for which technical advice is requested, the applicable law, and the IRS's and taxpayer's position.
- (2) Definitions of terms and the procedures for furnishing technical advice to Directors and Appeals, in areas under the jurisdiction of the Associates Chief Counsel, are found in the second Revenue Procedure that is published annually. This revenue procedure is the controlling document to use in the preparation, submission, and disposition of requests for technical advice. This revenue procedure, revised yearly, can be found as Rev. Proc. 20XX-2 ("XX" representing the current year.)
- (3) Before requesting technical advice, there must be a request for assistance and a recommendation from TEGE Division Counsel (TEGEDC). Any disagreement with that recommendation must be resolved through their respective supervisors. See the current year Rev. Proc. 20XX-2 for additional guidance.
- (4) In some employment tax inquiries, TEGEDC may handle the technical issue, thus negating the need for Associate Chief Counsel involvement.
- (5) Form SS-8, Determination of Worker Status for Purposes of Federal Employment Taxes and Income Tax Withholding, may be used when supplying information on employer-employee relationship questions. See IRM 4.23.5.5.1, Supplemental Procedures When Contacting Workers, for additional information.

- (6) In general, a field office may request technical advice from the appropriate Associate Chief Counsel office on any technical or procedural question which arises during an examination. Likewise, the taxpayer may also request technical advice during the examination. Advice should be requested in cases in which any of the following conditions exist:
 - a. The law and regulations are not clear on the issue being considered and there is no published precedent for determining the proper treatment of the issue.
 - b. There is reason to believe that a lack of uniformity in the treatment of the issue exists.
 - c. A doubtful or contentious issue is involved in a number of cases.
 - d. The issue is very unusual or complex and warrants associate office consideration.
 - e. The field office believes that securing technical advice from the associate office is in the best interest of the IRS.
- (7) When there is doubt as to whether or not a case should be submitted for technical advice, such doubt should be resolved in favor of requesting technical advice.

4.23.15.1.2
(01-09-2025)
Authority

- (1) Employment tax provisions are found at Internal Revenue Code Subtitle C:
 - Chapter 21, Federal Insurance Contributions Act (FICA),
 - Chapter 22, Railroad Retirement Tax Act (RRTA),
 - Chapter 23, Federal Unemployment Tax Act (FUTA),
 - Chapter 24, Federal Income Tax Withholding (FITW), and
 - Chapter 25, General Provisions relating to employment taxes and collection of income taxes at source.
- (2) The Employment Tax Program is governed by Policy Statements and other internal guidance that apply to all IRS personnel regardless of operating division. The Policy Statements found in IRM 1.2.1, Servicewide Policy Statements, apply to all employment tax issues and examinations. Examiners should review these Policy Statements to properly perform their examination duties.
- (3) A website, *IMD Search Servicewide Delegation Orders*, provides a searchable list of Servicewide Delegation Orders issued by the Commissioner of the Internal Revenue, or on their behalf by the Deputy Commissioner. Delegation Orders pertaining to each IRS business process can be found in IRM 1.2.2, Servicewide Delegations of Authority.
- (4) IRM 4.23 provides Servicewide instructions for all operating divisions with employees involved with the correct filing, reporting, and payment of employment taxes. IRM 4.23 serves as the foundation for consistent administration of employment taxes by various IRS operating divisions. By providing one source of authority for all operating divisions, the IRS greatly reduces philosophical and procedural inconsistencies.

4.23.15.1.3
(01-02-2020)
Roles and Responsibilities

- (1) Director, Specialty Exam Policy is responsible for the procedures and updates addressed in this IRM.
- (2) Director, Specialty Examination is the executive responsible for examination operational compliance.

4.23.15.1.4
(01-09-2025)
**Program Management
and Review**

- (1) Program Goals: The processes and procedures provided in this IRM are consistent with the objectives or goals that are addressed in IRM 1.1.16.5.3.3, Employment Tax Examination, and IRM 1.1.16.5.5.2.2, Employment Tax Policy.
- (2) Program Effectiveness: Program goals are measured with Employment Tax Embedded Quality Performance Reports that monitor whether quality attributes are applied uniformly and consistently.
- (3) Annual Review: Employment Tax Policy - Program Manager, is responsible for reviewing the information in this IRM annually to ensure accuracy and promote consistent tax administration.
- (4) Program Reports: Information regarding the reporting of program objectives are included on, but not limited to, the following reports submitted to the Director, Examination - Specialty:
 - Headquarters Examination Monthly Briefing,
 - Program Manager Monthly Briefing,
 - Examination Operational Review, and
 - Business Performance Reviews.
- (5) The Quarterly Business Performance Review (BPR) provides updates on the status of the Whistleblower claims in Operating Division SME status.

4.23.15.1.5
(01-09-2025)
Program Controls

- (1) All information management systems have safeguard measures in place that address key components of Information Technology (IT) security requirements to restrict access to sensitive data.
- (2) The Employment Tax program has established a separation of duties of users' roles-
 - Policy and procedures – Employment Tax Policy is within SB/SE Specialty Exam Policy
 - Case selection – Employment Tax – Workload Selection and Delivery is within SB/SE Examination Case Selection
 - Examination - Employment Tax Examination is within SB/SE Specialty Exam
 - Quality and review - Embedded Quality is within SB/SE Field and Specialty Exam Quality
- (3) The Issue Management System (IMS) is required to be used during employment tax examinations by examiners assigned to Specialty – Employment Tax Operations.
- (4) Unless instructed otherwise, examiners will use the Employment Tax Lead Sheets (ETLS) developed specifically for employment tax cases.
- (5) SB/SE ET examiners working ET Large Cases will use Large Case Lead Sheets (LCLS). LCLS are developed specifically for large case employment tax cases. Examiners working ET Large Cases will follow workpaper preparation, specific audit techniques, and case closing procedures unique to these types of audits.
- (6) The delegated authorities for the IRS under the control of SB/SE Specialty Exam Policy - Employment Tax are-

- IRM 1.2.2.5.39, Delegation Order 4-50 (Rev. 1), Voluntary Classification Settlement Program (VCSP) Applications,
- IRM 1.2.2.8.13, Delegation Order 7-13 (Rev. 2) (formerly DO-248, Rev. 1), Authority to Accept Classification Settlement Program (CSP) Offers and to Execute the Pro Forma Closing Agreements on CSP Issues, and
- IRM 1.2.2.15.19, Delegation Order 25-19 (Rev. 1), Professional Employer Organization (PEO) Certification.

4.23.15.1.6
(01-02-2020)
Acronyms

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

Acronym	Definition
BPR	Business Performance Review
EEE	Employee Benefits, Exempt Organizations and Employment Taxes
FITW	Federal Income Tax Withholding
FICA	Federal Insurance Contributions Act
FUTA	Federal Unemployment Tax Act
LB&I	Large Business and International
RRTA	Railroad Retirement Tax Act
SB/SE	Small Business/Self-Employed
SME	Subject Matter Expert
TAM	Technical Advice Memorandum
TBOR	Taxpayer Bill of Rights
TEGEDC	TEGE Division Counsel
TE/GE	Tax Exempt / Government Entities
TS	Taxpayer Services

4.23.15.1.7
(01-09-2025)

Related Resources

(1) The following table lists the primary sources of guidance:

Source	Title	Description of Guidance
IRM 4.23	Employment Tax IRM	IRM sections owned by SB/SE Specialty Examination Policy. Provides Servicewide instructions for employees of all operating divisions involved with the correct filing, reporting, and payment of employment taxes. IRM 4.23 serves as the foundation for consistent administration of employment taxes by various IRS operating divisions.
IRM 4.2.3	Technical Advice to Taxpayers and Examination Personnel	This IRM is utilized by technical personnel in LB&I, SB/SE, and TS as reference to providing various types of technical advice.
IRM 4.2.1	General Examination Information	Provides guidance regarding miscellaneous examination procedures.

(2) Other helpful information sources include:

- *SB/SE Employment Tax Small Business Knowledge Base* provides guidance, resources and information for examiners to aid in raising, developing, and resolving employment tax issues.
- *Specialist Referral System* can be used by any employee, regardless of operating division. In addition to requesting assistance or a referral, SRS may be used to submit informal questions or to request a consultation with an employment tax specialist to discuss employment tax potential in an examination.
- *Employment Tax Policy Contacts* provides contact information and program assignments for SB/SE Employment Tax Policy Analyst.

(3) The Taxpayer Bill of Rights (TBOR) lists rights that already existed in the IRC, putting them in simple language and grouping them into 10 fundamental rights. Employees are responsible for being familiar with and acting in accordance with taxpayer rights. For additional information about the TBOR see IRC 7803(a)(3) or *Taxpayer Bill of Rights*.

- (4) Employment tax examiners should consider the disclosure and privacy provisions when preparing agreed and unagreed case reports. For further information, see the Privacy, Government Liaison and Disclosure (PGLD) knowledge base at *Disclosure and Privacy Knowledge Base Homepage*.
- (5) The Taxpayer Advocate Service (TAS) is an independent organization within the IRS, led by the National Taxpayer Advocate. Its job is to protect taxpayers' rights by striving to ensure that every taxpayer is treated fairly and knows and understands their rights under the TBOR. TAS offers free help to taxpayers, including when taxpayers face financial difficulties due to an IRS problem, when they are unable to resolve tax problems they have not been able to resolve on their own, or when they need assistance to address an IRS system, process, or procedure that is not functioning as it should. TAS has at least one taxpayer advocate office located in every state, the District of Columbia, and Puerto Rico.
- (6) Overall responsibility for civil penalty programs is assigned to the Office of Servicewide Penalties (OSP). OSP is charged with coordinating policy and procedures concerning the civil penalty program administration, ensuring consistency with the penalty policy statement, reviewing and analyzing penalty information, researching penalty effectiveness on compliance trends, and determining appropriate action necessary to promote voluntary compliance. For further understanding of the civil penalty program and penalty relief, refer to the *Penalties Knowledge Base Homepage*.

4.23.15.2
(01-02-2020)

**Request Procedures —
Initiating Employment
Tax Technical Advice**

- (1) Rev. Proc. 20XX-2, Section 5, Initiating a Request for Technical Advice, provides that, before requesting a technical advice memorandum (TAM), the field office must request assistance and a recommendation from field counsel. If the field office disagrees with that recommendation, the field office must seek reconciliation with field counsel through their respective supervisors. Any request for technical advice must be approved in writing by the Director. A field office or the taxpayer may request a TAM.
- (2) During an examination, the taxpayer or their representative may request that an issue be referred to the Associate Chief Counsel office for technical advice on the grounds of lack of uniformity or that the issue is so unusual or complex as to warrant consideration by Associate Chief Counsel office. (See Policy Statement 4-82, Taxpayer may request referral of issue under jurisdiction of District Director to National Office, at IRM 1.2.1.5.25). Generally, requests for technical advice are submitted to the Associate Chief Counsel office on Form 4463, Request for Technical Advice Memorandum, including requests for technical advice on employee plans, exempt organizations, and governmental entities.
 - a. If the examiner thinks that a taxpayer's request for referral of an issue to the Associate Chief Counsel office for technical advice does not warrant consideration, the examiner will advise the taxpayer. The taxpayer may appeal the decision not to request technical advice by submitting to the examiner within thirty calendar days a statement of the facts, law and arguments on the issue, and the reasons why the matter should be referred to the Associate Chief Counsel office for technical advice. A request by the taxpayer for an extension beyond the thirty-day period must be in writing and be approved by the examiner's first and second level manager.

- b. The examiner will submit the taxpayer's appeal to the manager, along with a written statement of why the issue should not be referred to the Associate Chief Counsel office. The manager will determine on the basis of the statement whether technical advice will be requested. If the manager denies the taxpayer's request, the taxpayer will be notified in writing of the reasons for the denial.
- c. The taxpayer may not appeal the decision of the manager. However, the proposed denial is subject to review.
- d. If the taxpayer does not agree with the proposed denial, all data on the issue for which technical advice has been sought, including the taxpayer's written request and statements, will be submitted to the appropriate Director as defined in Section 2 - "Definitions", of the current year Rev. Proc. 20XX-2, for review of the proposed denial. The person responsible for review may consult with the Associate office, if appropriate.
- e. While the proposed denial package is being reviewed, the field office will suspend action on the issue (except when the delay would prejudice the Government's interest) until it is notified that the proposed denial is approved or disapproved. This notification is generally made within 45 calendar days after receipt of the data. The review will be based solely on the written materials submitted by the taxpayer and the field office. No conference will be held in Associate Chief Counsel office in regard to the appeal of a denial at this level.

4.23.15.2.1
(01-02-2020)
**Pre-Submission
Conferences**

- (1) Rev. Proc. 20XX-2, Section 6, Pre-submission Conferences, describes the pre-submission process. A pre-submission conference is mandatory. The parties should discuss the framing of the issues, the background information, and documents that should be included in the request for technical advice. The taxpayer and representatives from the field office, field counsel, and the Associate office may attend the pre-submission conference. If a request for technical advice is submitted without first holding a pre-submission conference, the Associate office will return the request for advice. Requests for technical advice can proceed even if a taxpayer declines to participate in a pre-submission conference.
- (2) Before requesting a pre-submission conference, the field office and the taxpayer must exchange proposed statements of the pertinent facts and issues. A request for a pre-submission conference must be submitted in writing by the field office with the assistance of field counsel. The request should identify the Associate office expected to have jurisdiction over the request for a TAM and should include a brief explanation of the primary issue.
- (3) See Revenue Procedure 20XX-2 (issued annually) for procedure on transmitting pre-submission materials. Generally, the pre-submission materials are sent from the field office to field counsel for the field counsel to submit to the Associate office.

4.23.15.2.2
(01-02-2020)
**Submitting the Request
for Technical Advice**

- (1) Every request for technical advice must include a memorandum that describes the facts, issues, applicable law, and argument supporting the taxpayer's position on the issues and the field office's position on the issues. The field office will prepare this statement with the assistance of field counsel. If the taxpayer and the field office disagree about ultimate findings of facts or about the relevance of facts, all of the facts should be included with an explanation that highlights the areas of disagreement. The field office submits the request

for technical advice. For a complete set of instructions, see the current year Rev. Proc. 20XX-2, Section 7, Submitting the Request for Technical Advice.

- (2) Form 4463 is transmitted electronically to the IRS. See form instructions for complete details. For SB/SE Employment Tax, an information copy should be sent to the SB/SE Director, Specialty Exam Policy. If the request covers an LB&I case, the phrase "Controlled LB&I Case" should be included in the subject heading to ensure that the request receives the highest possible priority at all levels.
- (3) It is the responsibility of the field office or Specialty Operation to determine whether technical advice will be requested on any issue. Each request must be submitted through proper channels and be signed by the Director or delegate and should include, in writing, the arguments submitted by the area in support of its position on the issue or issues.
- (4) Each request for technical advice should state the name and address of the taxpayer's authorized representative (if any), and whether a power of attorney is on file.
- (5) To facilitate necessary personal contact between the field office and Associate Chief Counsel office on pending technical advice cases, the following procedures are provided:
 - a. The name and telephone number of the examination group manager and examiner will be provided on Form 4463. For SB/SE Employment Tax requests, the referral will be coordinated with the assigned program analyst on the SB/SE Employment Tax Policy staff.
 - b. Upon receipt of a request for technical advice, a branch representative from the Associate Chief Counsel office with primary responsibility for the request will contact the field office to acknowledge receipt.
- (6) When technical advice is requested by the IRS, the taxpayer must be informed and furnished a copy of the request. The taxpayer will be given five calendar days to indicate, in writing, any disagreement about facts and specific questions. A request for additional time from the taxpayer must be in writing and be approved by the first and second level manager who have jurisdiction. Every effort should be made to reach agreement on the facts and specific points at issue. After the five-day period or extension has expired, the request for technical advice will be forwarded with the taxpayer's statement, if received, to Office of Chief Counsel to the attention of the Associate Area Counsel.

Note: The above does not apply in cases involving civil or criminal fraud investigations and jeopardy or termination assessments.

- (7) If the taxpayer initiates the action to request technical advice and the taxpayer's statement of the facts and points at issue are not acceptable to the field office, the examiner will advise the taxpayer, in writing, of the areas of disagreement. The taxpayer will then have ten calendar days after receiving the written notice to reply. If an extension beyond the ten calendar days is requested, in writing, it must be approved by either the territory manager or the Area Director of Appeals. If agreement cannot be reached, both the statements of the taxpayer and the examiner will be forwarded to the Office of Chief Counsel with the request for technical advice.

- (8) Usually within 21 calendar days after the technical branch at the Associate Chief Counsel office receives the request for technical advice, an attorney will telephone the Area Office, or appropriate government entities approving official, to discuss the procedural and substantive issues in the request. Area managers are encouraged to telephone the branch representative to discuss the progress of the case.
- (9) The Associate Chief Counsel office will indicate whether additional information is needed and will obtain that information from the taxpayer or field office in the most expeditious manner possible. Any additional information from the taxpayer must be provided within 10 calendar days of the request, unless an extension of time is requested from the Associate Chief Counsel office in writing and the request is approved. The additional information must be sent to the Associate Chief Counsel office, and the taxpayer must also send a copy to the Director for comment.
- (10) Every request for technical advice must include a statement of proposed deletions from public inspection. Because the text of a technical advice memoranda, TAM, is open to public inspection, the taxpayer must provide a statement indicating any desired deletions. A taxpayer who wants only names, addresses, and identifying numbers deleted must explicitly state these conditions in the deletion statement. The deletion statement appears in a separate document from the memo. A stamped signature or faxed signature is not permitted. If the deletion statement is not received within 10 calendar days after the taxpayer is notified a deletion statement must be provided, the field office will provide the Associate office with an appropriate deletion statement. For additional information on the deletion statement, see the current year Rev. Proc. 20XX-2, Section 7.
- (11) The field office prepares the memo requesting technical advice with the assistance of field counsel and sends it to the taxpayer by mail or by fax. The taxpayer has five calendar days from the date of mailing or faxing to respond by providing a written statement specifying any disagreement on the facts and issues. After the taxpayer's response is received by the field office, the parties will have 10 calendar days to resolve remaining disagreements. If all disagreements about the statement of facts and issues are resolved, the field office will prepare a single statement of those agreed facts and issues. If disagreements continue, both the taxpayer's set of facts and issues and the field's set of facts and issues will be forwarded to the Associate office. The field office, with the assistance of field counsel, will prepare a memorandum to the Associate office highlighting the material factual differences, and provide a copy to the taxpayer. This memo will be forwarded with the initial request for technical advice. The taxpayer's statement of facts and issues must be accompanied by the following declaration:

"Under penalties of perjury, I declare that I have examined this information, including accompanying documents, and, to the best of my knowledge and belief, the information contains all relevant facts relating to the request for technical advice, and such facts are true, correct, and complete."

Reminder: This declaration must be signed in accordance with the requirements in section 7.015 (b) of the current year Rev. Proc. 20XX-1.

- (12) The field office will offer the taxpayer an opportunity to participate in the development of the TAM. If the taxpayer does not participate in a material stage of

the process after being offered an opportunity, the Associate office will nonetheless process the request, and the taxpayer will have waived the right to participate in the development and issuance of the TAM, including the right to have a conference if the proposed TAM is adverse to the taxpayer. (See the current year Rev. Proc. 20XX-2, Section 9, Taxpayer Conferences.)

- (13) If the TAM relates to a SB/SE or TE/GE taxpayer, the field office must send one paper copy to the Division Counsel of the operating division that has jurisdiction over the taxpayer's tax return. If the TAM relates to an LB&I taxpayer, an electronic copy (no paper copy to follow) is sent to LB&I Division Counsel.

4.23.15.2.3
(01-02-2020)
**Use of Status Code "14"
on Employment Tax
Cases Waiting for
Headquarters or
Counsel Guidance**

- (1) When an employment tax case requires coordination with Headquarters and/or Counsel, there is sometimes a period of inactivity while the examiner is waiting for guidance to be provided or review of unagreed write ups to be completed. During such periods of inactivity, status code "14" is available for use by employment tax examiners to suspend a case if:
- There is no other work that can be completed pending receipt of the guidance, and
 - The examiner expects the inactivity to continue for a period greater than 45 days.
- (2) When use of the suspense status code is appropriate, the examiner will:
- Update the case to status code "14" using local group procedures,
 - Follow up monthly with the National Office of Counsel contact, and
 - Document these actions in the case file.
- (3) No time should be charged to the case while in status code "14". If additional audit work can be completed while waiting for a response from National Office or Counsel, the case must remain in status code "12". Managers are required to monitor the use of status code "14" to ensure cases do not remain in it longer than necessary.

4.23.15.3
(01-02-2020)
Taxpayer Conferences

- (1) The taxpayer will be advised of their right to a conference in the Associate Office of Chief Counsel if an adverse decision is indicated and will be asked to advise if such a conference is desired (provided they have not waived their right to a conference). The examiner will make a note in the history as to the taxpayer's choice.
- (2) The taxpayer will be informed of the time and place for the conference. The conference must occur within 10 calendar days after the taxpayer is informed that an adverse TAM is proposed. The Associate office will notify the field office and field counsel of the scheduled conference and will offer the field office and field counsel the opportunity to participate in the conference. See the current year Rev. Proc. 20XX-2, Section 9, for more information regarding taxpayer conferences.

4.23.15.4

(01-02-2020)

**Differences of Opinion
Between Directors and
Associate Chief Counsel
Office**

- (1) A Director in disagreement with a technical advice should present those views on the issue to the Associate Chief Counsel Office with a request for reconsideration. While an issue is being reconsidered, the Director will withhold any advice to the taxpayer.
- (2) The IRS encourages frank expression of views by the Director on any issue involved in a request for technical advice. If the Director has facts which are not disclosed in the case file or has developed a point of view which is pertinent to the issues involved, the Associate Chief Counsel Office should be fully informed of such facts or point of view when requesting reconsideration on a case.
- (3) Requests for reconsideration must describe with specificity the errors in the analysis and conclusions. Requests should focus on points that the TAM overlooked or misconstrued rather than simply re-arguing points raised in the initial request.
- (4) While a free exchange of views is encouraged, the final advice furnished to the Director will be considered to be the IRS's position and will be adopted by the Director.
- (5) See the current year Rev. Proc. 20XX-2, Section 10, Preparation of the Technical Advice, for more information.

4.23.15.5

(01-09-2025)

**Coordination of
Employment Tax Rulings
With Social Security
Administration**

- (1) When there are divergent views between representatives of field office examination and a field office of the Social Security Administration, in a case under examination affecting the tax and benefit status of services or remuneration under the employment tax laws, including determinations for self-employment tax purposes, every effort should be made to coordinate and resolve such differences by consultation or exchange of views at the field level.
- (2) If the divergent views are resolved at the field level and the taxpayer is not in agreement with the proposal, they will be accorded the usual appeal rights.
- (3) If the difference of opinion cannot be resolved so as to render consistent the views of the field office examination and the Social Security Administration's field office regarding the tax and benefit status of a particular case, the matter will be referred to the TEGEDC Counsel for appropriate action. No case will be referred to the Appeals Office in which the views of the field office examination and the Social Security Administration are in divergence.
- (4) The referral to the TEGEDC Counsel should be sent to *TEGEDC Employment Tax Counsel Assistance* with the following information:
 - Taxpayer Name,
 - Taxpayer EIN,
 - Taxpayer Address,
 - Periods at Issue, and
 - Earliest Statute of Limitation Date.
- (5) Include a brief summary of the issue (including applicable IRC sections). This should be a clear and comprehensive statement of the entire factual situation, including a brief statement of the basis for the conclusions reached by the field office examination.

- (6) Attach any relevant documents to the request email, that is Form 886-A, Taxpayer Arguments, Rebuttal, any information or evidence made available by the Social Security Administration, and so on.