



MANUAL TRANSMITTAL

Department of the Treasury
Internal Revenue Service

8.7.15

AUGUST 4, 2025

EFFECTIVE DATE

(08-04-2025)

PURPOSE

- (1) This transmits IRM 8.7.15, Technical and Procedural Guidelines, Administrative Cost and Qualified Offer Cases.

MATERIAL CHANGES

- (1) Added new IRM 8.7.15.1, Program Scope and Objectives, and related sections to address internal controls as required by IRM 1.11.2.2.4, Address Management and Internal Controls.
- (2) Included in new IRM 8.7.15.1.6, Related Resources, information on the Taxpayer Bill of Rights (TBOR), based on guidance from the Division Counsel/Associate Chief Counsel (National Taxpayer Advocate Program) and Branch 3 of the Associate Chief Counsel (Procedure and Administration).
- (3) Added a reference in new IRM 8.7.15.1.6, Related Resources, to IRM 25.30.2, Service Level Agreement between the IRS Independent Office of Appeals and the Taxpayer Advocate Service.
- (4) Updated names of letters throughout document.
- (5) Change name from Case and Operations Support to Operations Support throughout document.
- (6) Change name from Tax Policy and Procedures to Policy, Planning, Quality, and Analysis (PPQ&A) throughout document.
- (7) Change name from Service to IRS throughout document.
- (8) Changed fax to email throughout document.
- (9) Made editorial changes throughout this IRM for clarity. Reviewed and revised text to incorporate plain language and correct grammatical errors, as well as to update legal references, IRM citations and Chief Counsel Directives Manual (CCDM) citations.

EFFECT ON OTHER DOCUMENTS

This supersedes IRM 8.7.15 dated 09/24/2012.

AUDIENCE

The IRS Independent Office of Appeals

Steven M. Martin
Director, Operations Support

8.7.15

Administrative Cost and Qualified Offer Cases

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8.7.15.1
(08-04-2025)
Program Scope and Objectives

- (1) Purpose: This IRM section provides procedures for working Administrative Cost and Qualified Offer Cases in the IRS Independent Office of Appeals (Appeals).
- (2) Audience: The primary users of this IRM section are Appeals technical employees (ATEs).
- (3) Policy Owner: PPQ&A is under the Director, Operations Support.
- (4) Program Owner: Appeals Policy is the program office responsible for providing technical and procedural guidance to the Appeals organization and is under the Director of PPQ&A.
- (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.

8.7.15.1.1
(08-04-2025)
Background

- (1) The mission of Appeals is to resolve Federal tax controversies without litigation on a basis which is fair and impartial to both the Government and the taxpayer, promotes a consistent application and interpretation of, and voluntary compliance with, the Federal tax laws, and enhances public confidence in the integrity and efficiency of the IRS.
- (2) Appeals accomplishes its mission by considering protested and docketed Tax Court cases and negotiating settlements in a manner which ensures Appeals employees act in accord with the TBOR in every interaction with taxpayers. See IRM 8.1.1.2, Accomplishing the Appeals Mission.

8.7.15.1.2
(08-04-2025)
Authority

- (1) IRC 7803(e), Independent Office of Appeals
- (2) 26 CFR 601.106, Appeals Functions
- (3) IRC 7430, Awarding of Costs and Certain Fees
- (4) IRC 7430(g), Qualified Offer
- (5) 26 CFR 301.7430-7, Qualified Offers

8.7.15.1.3
(08-04-2025)
Responsibilities

- (1) The Director, Operations Support, is the executive responsible for Appeals policy and procedural guidance.
- (2) The Director, PPQ&A, is the program manager responsible for program oversight.
- (3) The Policy analyst shown on the Product Catalog page as the "Content POC" (Point of Contact) is the assigned author of this IRM.

8.7.15.1.4
(08-04-2025)
Program Management and Review

- (1) PPQ&A provides trends and data analyses and detailed summary reports for Appeals.

8.7.15.1.5
(08-04-2025)
Terms and Acronyms

- (1) See Exhibit 8.7.15-1, Definitions Common in IRC 7430 Cases.

8.7.15.1.6
(08-04-2025)

Related Resources

- (1) IRM 1.1.7, Appeals
- (2) *IRS Independent Office of Appeals intranet page*
- (3) The TBOR lists rights that already existed in the tax code, putting them in simple language and grouping them into 10 fundamental rights. Employees are responsible for being familiar with and acting in accord with taxpayer rights. See IRC 7803(a)(3), Execution of Duties in Accord with Taxpayer Rights. For additional information see the *TBOR* website.
- (4) In accordance with IRM 25.30.2.3, Statement of Commitment, Appeals will work collaboratively with the Taxpayer Advocate Service (TAS) to enhance the taxpayer experience. For more information, see IRM 25.30.2, Service Level Agreement between the IRS Independent Office of Appeals and the Taxpayer Advocate Service.
- (5) *Administrative and Litigation Costs SharePoint*

8.7.15.2
(11-06-2007)

Introduction to IRC 7430 Costs

- (1) The provisions of IRC 7430 allow a prevailing party to be awarded a settlement for reasonable administrative costs incurred in connection with an administrative proceeding within the IRS, and reasonable litigation costs incurred in connection with a court proceeding. The costs must be incurred in situations involving administrative or court proceedings connected to the determination, collection or refund of any tax, interest or penalty.
 - a. "Administrative proceeding" means any procedure or other action before the IRS.
 - b. "Court proceeding" means any civil action brought in a court of the United States, including the United States Tax Court and the United States Court of Federal Claims.
- (2) In court proceedings, the prevailing party must exhaust all administrative remedies available before the court can consider awarding reasonable litigation costs. This requires the taxpayer to utilize their right to an Appeals conference, when available. For example:
 - a. If the 30-day letter is issued, and the taxpayer decides not to go to Appeals but instead goes to Appeals when the court is petitioned on the 90-day letter, the taxpayer is not entitled to administrative or legal costs under IRC 7430 because all administrative remedies were not exhausted.
 - b. If the IRS decides not to issue the 30-day letter and only issues the 90-day letter, IRC 7430 applies because the taxpayer was not given the opportunity to go to Appeals.
- (3) For a definition of the terms commonly used in these cases, see Exhibit 8.7.15-1.
- (4) See *CCDM 35.10.1*, Awards of Litigation and Administration Costs and Fees, for detailed information about IRC 7430 costs.

8.7.15.2.1
(10-01-2012)

Appeals Involvement in IRC 7430 Cases

- (1) Appeals receives the following four types of cases where a request for IRC 7430 costs may be present. The first three types are discussed in this IRM.

- a. Claim cases with a request for administrative costs under IRC 7430(a)(1), in which the substantive issues or the administrative cost issues were never before a court of the United States with jurisdiction over the issues (including the Tax Court or United States Court of Federal Claims).

Note: If the substantive issue and/or the IRC 7430 costs **were** previously under the jurisdiction of a United States court (including the Tax Court or the United States Court of Federal Claims), Appeals denies the claim and lets the taxpayer know the claim can't be considered or settled in Appeals. Appeals does not have jurisdiction to settle these cases.

- b. Docketed cases in Appeals for settlement of substantive issues where the taxpayer raises the administrative or litigation costs and fees issue. The case is not a claim for refund. It may or may not have a qualified offer.
 - c. Pre-90-day cases that include a qualified offer, which was filed after the 30-day letter was issued, to resolve the substantive issues.
 - d. Collection Due Process hearings under IRC 6320 and IRC 6330. See IRM 8.22.8.15, Qualified Offers.
- (2) When a case is assigned, the ATE needs to determine whether the case has the IRC 7430 cost issue, and if it does, determine if the case meets the statutory and filing requirements of IRC 7430 for granting an award of reasonable administrative and litigation costs and fees.

8.7.15.2.2
(10-01-2012)
**Claim Cases Involving
IRC 7430**

- (1) Appeals considers claims for administrative cost awards if the substantive issues or IRC 7430 cost issues are not and have never been before any court of the United States with jurisdiction over these issues. If the claim does not state that the substantive issues or IRC 7430 costs have not been before a court, contact the taxpayer to confirm these facts.

Note: A claim for refund of administrative costs cannot include a claim for refund of litigation costs.

- (2) Once the case is assigned, the ATE determines the following:
 - a. Whether the statutory requirements are met;
 - b. Whether the claim is properly filed and includes required documents; and
 - c. Whether the costs requested for refund are reasonable.
- (3) If the taxpayer is denied an award in whole or in part, they may appeal the decision by filing a petition with the Tax Court in accordance with the Tax Court's Rules of Practice and Procedure.
- (4) The IRS is authorized but not required to notify the taxpayer of the decision to grant or deny an award. If the notice is **not** sent within six months of when the request is filed, the IRS's failure to respond is considered a decision by the IRS to deny the claim.
- (5) The taxpayer can appeal a decision by the IRS to deny the claim, in whole or in part, after the expiration of the six month time frame. An appeal is filed with the Tax Court following the Tax Court Rules of Practice and Procedures. This proceeding requires the use of Tax Court rules 270 through 274. See Treas. Reg. 301.7430-2(c)(7).

8.7.15.2.2.1
(10-01-2012)

**ATE Procedures for
Processing Claim Cases
with IRC 7430**

- (6) Refer to *CCDM 35.10.1.2*, Actions for Administrative Costs.
- (1) Prepare the Appeals Case Memorandum (ACM) recommending denial of claim consideration, the costs be allowed in full, denied in full, or allowed in part.
- (2) Prepare the appropriate decision letter to issue to the taxpayer when the case is closed.
 - a. Letter 2600, Disallowance for Administrative Costs
 - b. Letter 2601, Consideration of Administrative Costs Denied
 - c. Letter 2602, Partial Disallowance for Administrative Costs
- (3) Prepare an approval package that includes the following:
 - a. Form 9333, Agreement as to Administrative Costs under Section 7430, with the taxpayer's or power of attorney's signature. See Exhibit 8.7.15-2;
 - b. IRS Administrative Cost Data Sheet. An example of what this sheet looks like is located in Exhibit 8.7.15-3;
 - c. ACM;
 - d. Administrative file associated with the administrative cost claim;
 - e. Affidavits, statements, documents and information supplied by the taxpayer to support the IRC 7430 award;
 - f. Copy of power of attorney;
 - g. Copy of Administrative Cost Claim Letter; and
 - h. Any other pertinent information.
- (4) Forward the approval package to the Policy analyst who handles the administrative cost and qualified offers program through the Appeals Team Manager (ATM). The Policy analyst reviews the award determination and emails the claim package to the Director, PPQ&A, for approval and signature. The Director, PPQ&A, must sign *FS Form 194*, the IRS Administrative Costs Data Sheet and Form 9333. The Director, PPQ&A, should then email the signed claim package back to the Policy analyst for processing.
- (5) The Policy analyst sends the administrative cost claim package to the Department of the Treasury, Financial Management Services, Judgment Fund for payment. The payment will be sent directly to the taxpayer either by mail or direct deposit (if the taxpayer provides the analyst with the direct deposit information). The Director, PPQ&A, will receive a payment email from the Judgment Fund. The Director, PPQ&A, should forward the email to the analyst, who will in turn send the email to the ATE.
- (6) Once the ATE receives the Judgment Fund payment email, they may close the case following normal procedures.

8.7.15.2.3
(10-01-2012)

**Appeals Involvement in
Docketed IRC 7430
Cases**

- (1) When Appeals is considering substantive issues in a docketed case and the taxpayer raises the IRC 7430 costs issue, determine if the IRC 7430 statutory requirements are met and if the costs claimed are reasonable. If they are, determine the proper amount of costs to reimburse.

Note: If the docketed case contains a qualified offer, discuss it with the Field Counsel attorney to determine whether it meets the requirements of a qualified offer and whether there is a need to expedite the settlement procedures. See *CCDM 35.10.1.3.1*, Requirements for Qualified Offer.

- (2) Determine if the 90-day offer period expired. If the case is within 90 days of when the qualified offer was filed, it is an expedite case. Contact the Policy analyst who handles the administrative cost and qualified offers program and request immediate assistance. Also, discuss the expedite nature of the case with the ATM.
- (3) Request that Account and Processing Support (APS) enter "7430 qualified offer" in the notes section of the Appeals Case Summary Card.
- (4) Once a determination is made, send the Field Counsel attorney a memorandum stating the rationale for the proposed settlement.
 - a. Include both the IRC 7430 costs issue and the substantive issues in the Appeals settlement.
- (5) If the Field Counsel attorney concurs with the recommended settlement, he/she prepares a memorandum stating the reason for accepting the settlement and why the fee is justified. The settlement is included in the decision document/stipulation of agreed issues.
 - a. *CCDM 35.8.2.6, Preparing Decision Documents for Cases Involving Claims for Attorney's Fees Under Section 7430*, explains when the IRC 7430 cost issue is raised in settled or litigated cases and the parties agree on the disposition of the issue, the decision document must include either a provision stating the petitioner is not entitled to the cost, or a provision stating the petitioner is entitled and the amount they are entitled to under IRC 7430.

Note: When a basis for settlement of the IRC 7430 issue is not reached in Appeals, forward the case to Field Counsel. The taxpayer files a motion for fees under Tax Court Rule 231(a)(2).

- (6) If the parties agree to all issues except the IRC 7430 costs, the parties must submit a stipulation of settlement that includes the elements described in Tax Court Rule 231(c). The rule provides the stipulation of settlement accompanies a motion for costs.

8.7.15.2.3.1
(11-06-2007)
**Processing Docketed
Cases with IRC 7430**

- (1) Prepare the ACM recommending settlement to allow the IRC 7430 cost issue, in full or in part, or to deny the costs. Include a discussion of the disposition of costs in the ACM.
- (2) If a settlement is reached between the petitioner and Appeals, prepare a docketed IRC 7430 package for the Field Counsel attorney to use in processing the costs. This package includes the following:
 - a. IRS Administrative Cost Data Sheet
 - b. ACM
 - c. Administrative file associated with administrative cost claim including affidavits, statements, documents and information supplied by the taxpayer to support the IRC 7430 award.
 - d. Memorandum to the Field Counsel attorney requesting concurrence with the settlement of the IRC 7430 costs.
 - e. Memorandum from the Field Counsel attorney indicating agreement with the settlement.

- (3) Send the package to the Field Counsel attorney with the request to prepare the decision document. Also send an information copy of the package to the Policy analyst who handles the administrative cost and qualified offers program.
- (4) Follow normal closing procedures for docketed cases when the Field Counsel attorney is required to prepare the decision documents.
- (5) Payment of the award is processed by the Field Counsel attorney.

8.7.15.2.4
(10-01-2012)

**Pre-90-Day Cases with a
Qualified Offer**

- (1) Qualified offers are another way for the taxpayer to be a prevailing party. If an offer meets the criteria in IRC 7430(g), it's considered a qualified offer.
- (2) Qualified offers must be expedited if they are received during the period the offer remains open. Make every attempt to resolve the issues within 90 days of when the qualified offer is filed. With the assistance of the ATM, decide if the substantive issues can be resolved within 90 days of receipt of the qualified offer.
- (3) This time frame can be extended by the taxpayer. Since there is no specific form to do this, any written request is acceptable. The request must be emailed to the Policy analyst who handles the administrative cost and qualified offers program, who ensures it is submitted to Counsel for immediate review.
- (4) If the issue is not resolved within 90 days of when the qualified offer is filed, the taxpayer has a valid qualified offer for consideration by the court in awarding administrative costs and litigation costs, unless the case is subsequently settled before the court makes a determination or the taxpayer files a subsequent qualified offer. If either of these occurs, the qualified offer under consideration by Appeals is no longer a valid qualified offer.
- (5) All other requirements under IRC 7430 dealing with administrative costs and litigation costs apply to qualified offer cases. However, IRC 7430(c)(4)(E) places additional limitations on qualified offer cases not placed on other administrative and litigation cost cases.
- (6) If the taxpayer references qualified offer or IRC 7430(g) in the protest, or in a separate letter in response to the 30-day letter or statutory notice of deficiency, contact the Policy analyst who handles the administrative cost and qualified offers program. The analyst will discuss required actions with the ATE.
- (7) If the requirements for a qualified offer are met and it is considered valid, request that APS input "IRC section 7430 Qualified Offer" in the notes section of the Appeals Case Summary Card.
- (8) Appeals assumes jurisdiction of the case even if the taxpayer fails to prepare a proper protest.
- (9) If the requirements for a qualified offer are not met, inform the taxpayer that the offer is not valid. Explain how to correct the offer in case the taxpayer wishes to file another qualified offer. Proceed with resolving the substantive issues in the case. Identify the qualified offer as an issue that was considered.
- (10) If the case is received with a qualified offer that is not within the 90-day time frame, continue with the normal case resolution procedures.

Note: When considering the issues for settlement, remember if issues raised in the qualified offer are not settled by Appeals or Counsel, and subsequently there is a judgment entered by the court equal to or less than the amount in the qualified offer for the identified issues, the government is liable for IRC 7430 costs.

- (11) If it is determined a statutory notice of deficiency (SND), or a notice of claim disallowance needs to be issued, the position taken must be a position the government can defend if the case is litigated. Otherwise, the government is liable for IRC 7430 costs from the date the last qualified offer was filed. The IRC 7430 costs are those incurred for the issues identified in the qualified offer, but only if the judgment is equal to or less than the amount the taxpayer offered.
- (12) For detailed information on qualified offers, see *CCDM 35.10.1.3*, Qualified Offer Rule, and *CCDM 35.10.1.3.1*, Requirements for Qualified Offer.

8.7.15.2.5
(10-01-2012)
**Recovering IRC 7430
Administrative Costs**

- (1) The costs the taxpayer is allowed to recover in an administrative proceeding are the administrative costs beginning after the earliest of the issuance of the 30-day letter, the Notice of the Decision of the IRS Independent Office of Appeals (NODA), or the SND. The following represents some examples:

For example: If the case comes to Appeals in pre-90-day status, the costs incurred by the taxpayer to have the protest prepared and a qualified representative present the taxpayer's position in Appeals are included in administrative costs. If Appeals decides that the taxpayer's position is correct on all but one issue, a notice of deficiency is prepared for the issue on which the taxpayer's position is not correct. If the taxpayer later files a claim for administrative costs, only the costs incurred for the issue in the SND are administrative costs for purposes of an award under IRC 7430. Since the government conceded the other issues before the receipt of the NODA, the taxpayer cannot recover these administrative costs in any future claim for IRC 7430 costs. Since the taxpayer received a NODA regarding one issue, the taxpayer is entitled to claim the costs for preparing the protest and qualified representation in Appeals for that one issue.

- (2) To recover administrative costs, the taxpayer must file a written claim with the IRS function that has jurisdiction over the tax matter underlying the claim for costs. See Treas. Reg. 301.7430-2(c)(3) for details of the contents of the request.
 - a. If the taxpayer does not know the IRS function with jurisdiction of the issue, they send the request to the IRS office that considered the substantive issue.
- (3) The request for administrative costs must be filed within 90 days after the final decision of the IRS is issued or otherwise furnished to the taxpayer. The final decision is the document that resolves the tax liability for the taxpayer including tax, additions to tax and penalties in the administrative proceeding, such as a Form 870 agreement or notice of assessment (if received earlier).

8.7.15.2.6
(10-01-2012)
**Payment of Awards for
IRC 7430 Costs**

- (1) Prepare the documents for consideration and payment of administrative and litigation cost awards. See IRM 8.7.15.2.2.1. The payment is made by the Department of the Treasury, Financial Management Services, Judgment Fund.

- (2) Send the documents to the Policy analyst who handles the administrative cost and qualified offers program. Verify the payment is processed and issued to the taxpayer. Close the case following normal closing procedures.
- (3) The Field Counsel attorney prepares the documents for payment of administrative and litigation costs when the case is docketed, or the substantive issue or IRC 7430 issue is now, or previously has been, before a United States Court. After the decision to award litigation costs is made, and Counsel processes the award, return the case to APS for closing.
- (4) Non-docketed qualified offer cases and docketed qualified offer cases do not involve payment of awards at the ATE level.

8.7.15.2.7
(10-01-2012)
**Appeals Procedures for
Closing IRC 7430
Administrative Cost
Cases**

- (1) If the request is disallowed, the taxpayer is given the opportunity to go to Tax Court. If the taxpayer doesn't petition, or if the Tax Court denies the request, close the case off Appeals Centralized Database System (ACDS) following the instructions in paragraph (4).
- (2) If the request is allowed, the case is processed in this manner:
 1. ATE completes Form 9333, Agreement as to Administrative Costs Under Section 7430 - Exhibit 8.7.15-2.
 2. ATE completes IRS Administrative Cost Data Sheet - Exhibit 8.7.15-3.
 3. The administrative cost claim agreement package (as described in IRM 8.7.15.2.2.1 (3)), is forwarded to the Policy analyst who handles the administrative cost and qualified offers program. The analyst will forward approved claims to the Department of the Treasury, Financial Management Services, Judgment Fund for processing and payment. See below for ACDS update.
 4. No costs are paid unless the taxpayer or the representative signs the agreement form.
- (3) When the Form 9333 and IRS Administrative Cost Data Sheet are forwarded to the analyst, update ACDS:
 - a. **LACTION** = Enter FLDSVCS
 - b. **LTODATE** = Enter the date information sent
 - c. **LFROMDATE** = Enter the date information is received back from the analyst
- (4) When the agreement is signed and forwarded to Policy for payment and payment notification is received from the Judgment Fund, follow general instructions for closing ACDS. In addition:
 - a. **CLOSINGCD** =
 - 14 - if the request was disallowed
 - 15 - if the request was allowed
 - 16 - if the request was partially allowed
 - b. **DATECLSD** =
 - If allowed - enter the date agreement (Form 9333) is signed by the Area Director, ATM or Appeals Team Case Leader
 - If disallowed - enter the date of the letter to the taxpayer
 - c. **ACTION** – ACKCLS
 - d. **TODATE** – Enter the date mailed to Collection, Campus or Appraisal Services for payment or the date a partial or full disallowance letter is issued

- e. **FROMDATE** – Enter the date receipt is acknowledged
- f. **Paycode** = 7
- g. **APPEALS AMTDIS** – Enter the amount disallowed. (If the full amount of the claim is allowed, no entry is made on the return information screen).

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Exhibit 8.7.15-1 (10-01-2012)**Definitions Common in IRC 7430 Cases**

1. Administrative proceedings is defined in IRC 7430(c)(5) and explained in Treas. Reg. 301.7430-3(a). Generally, it means any procedure or other action before the IRS that is commenced after November 10, 1988. However, an administrative proceeding does not include matters of general application, including hearings on regulations, comments on forms, or proceedings involving revenue rulings or revenue procedures; proceedings involving requests for private letter rulings or similar determinations; proceedings involving most technical advice memoranda; and proceedings in connection with collection actions, excluding claims for refunds after payment of the assessed tax and proceedings described in Treas. Reg. 301.7430-8(c) and Treas. Reg. 301.7433-2.
2. Administrative proceeding date is defined in IRC 7430(c)(7) and Treas. Reg. 301.7430-3(c). The term administrative proceeding date means the earlier of--
 - a. The date of the receipt by the taxpayer of the NODA; or
 - b. The date of the SND.
3. Attorney Fees is defined in IRC 7430(c)(3). For the purposes of reasonable litigation costs and administrative costs, these are fees for services of an individual who is authorized to practice before the Tax Court or before the IRS. Pro bono services are covered if the fees are paid to the individual or their employer. The costs must be incurred after receipt of the NODA, SND or the first letter of proposed deficiency that allows the taxpayer for an administrative review in the IRS, whichever is the earliest received.
4. Court Proceedings is defined in IRC 7430(c)(6). It means any civil action brought in a court of the United States, including the Tax Court and the United States Court of Federal Claims.
5. Most significant issue or set of issues is defined in Treas. Reg. 301.7430-5(e). Where the taxpayer has not substantially prevailed with respect to the amount in controversy, the taxpayer may nonetheless be a prevailing party if the taxpayer substantially prevails with respect to the most significant issue or set of issues presented. The issues presented include those raised as of the administrative proceeding date and those raised subsequently. Only in a multiple issue proceeding can a most significant issue or set of issues presented exist. However, not all multiple issue proceedings contain a most significant issue or set of issues presented. An issue or set of issues constitutes the most significant issue or set of issues presented if, despite involving a lesser dollar amount in the proceeding than the other issue or issues, it objectively represents the most significant issue or set of issues for the taxpayer or the IRS. This may occur because of the effect of the issue, or set of issues, on other transactions or other taxable years of the taxpayer or related parties.
6. Net worth and size limitations is defined in IRC 7430(c)(4)(D) and explained in Treas. Reg. 301.7430-5(f). The determination is made on the administrative proceeding date.
 - a. An individual taxpayer or an estate meets the net worth and size limitations if the taxpayer's net worth does not exceed \$2,000,000. For this purpose, individuals filing a joint return shall be treated as one taxpayer, except in the case of a spouse relieved of liability under IRC 6015.
 - b. A taxpayer that is an owner of an unincorporated business, or any partnership, corporation, association, unit of local government, or organization (other than an organization described in Treas. Reg. 301.7430-5(f)(3)) meets the net worth and size limitations if the taxpayer's net worth does not exceed \$7,000,000, and the taxpayer does not have more than 500 employees.
 - c. There are special rules for charitable organizations and certain cooperatives. Those listed in Treas. Reg. 301.7430-5(f)(3) meet the net worth and size limitations if the organization or cooperative association does not have more than 500 employees.
7. Notice of the Decision of the IRS Independent Office of Appeals (NODA) is defined in Treas. Reg. 301.7430-3(c)(2). A notice of the decision of Appeals is the final written document, mailed or delivered to the taxpayer, that is signed by an individual in Appeals who has been delegated the authority to settle the dispute on behalf of the Commissioner of Internal Revenue, and states or indicates that the notice is the final determination of the entire case. A notice of claim disallowance issued by Appeals is a NODA.

Exhibit 8.7.15-1 (Cont. 1) (10-01-2012)**Definitions Common in IRC 7430 Cases**

8. Notice of deficiency is defined in Treas. Reg. 301.7430-3(c)(3). A notice of deficiency is a notice described in IRC 6212(a), including a notice rescinded pursuant to IRC 6212(d). For purposes of determining reasonable administrative costs, a notice of final partnership administrative adjustment and a notice of final S corporation administrative adjustment will be treated as an SND.
9. Prevailing party is defined in IRC 7430(c)(4) and explained in Treas. Reg. 301.7430-5. For purposes of an award of reasonable administrative costs in the case of administrative proceedings commenced after July 30, 1996, a taxpayer is a prevailing party only if the position of the IRS was not substantially justified; if the taxpayer substantially prevails as to the amount in controversy, or with respect to the most significant issue or set of issues presented; and the taxpayer satisfies the net worth and size limitations. An exception to this is that a party shall be treated as the prevailing party regardless of whether they substantially prevailed if the taxpayer files a valid IRC 7430(g) qualified offer. In that situation, the prevailing party rules of IRC 7430(c)(4)(E) will apply instead. A taxpayer is a prevailing party if the taxpayer's liability under a judgment entered by the court is equal to or less than the amount of the last qualified offer made by the taxpayer.
10. Prevailing Party under IRC 7430(g) is explained in IRC 7430(c)(4)(E). Additional limitations apply to IRC 7430(g) qualified offer cases. These additional limitations are:
 - a. The determination of the prevailing party shall be made by reference to the last qualified offer with respect to the tax liability at issue in the proceeding.
 - b. Reasonable administrative and litigation costs shall only include costs incurred on and after the date of the offer.
 - c. IRC 7430(c)(4)(E) will not apply to any judgment issued pursuant to a settlement.
 - d. IRC 7430(c)(4)(E) will not include any proceeding where the amount of tax liability is not at issue.
11. Position of the United States is defined in IRC 7430(c)(7) and explained in Treas. Reg. 301.7430-5(b). It is the position of the United States in an administrative proceeding as of the administrative proceeding date, and it is the position taken by the United States in a judicial proceeding.
12. Presumption is explained in Treas. Reg. 301.7430-5(c)(3). If the IRS did not follow any applicable published guidance in an administrative proceeding commenced after July 30, 1996, the position of the IRS, on those issues to which the guidance applies and for all periods during which the guidance was not followed, will be presumed not to be substantially justified. This presumption may be rebutted. The term "applicable published guidance" means final or temporary regulations, revenue rulings, revenue procedures, information releases, notices, announcements, and, if issued to the taxpayer, private letter rulings, technical advice memoranda, and determination letters.
13. Qualified offer is defined in IRC 7430(g)(1) and explained in Treas. Reg. 301.7430-7. A qualified offer means a written offer made by the taxpayer to the United States during the qualified offer period, which specifies the offer amount, is designated at the time it is made as a qualified offer and remains open during the period beginning on the date it is made and ending on the earliest of the date the offer is rejected, the date the trial begins, or the 90th day after the date the offer is made.
14. Qualified offer period is defined in IRC 7430(g)(2) as the period beginning on the date the first letter of proposed deficiency, which allows the taxpayer an opportunity for administrative review in Appeals, is sent, and ending on the date which is 30 days before the date the case is first set for trial.
15. Reasonable Costs:
 - a. Reasonable litigation costs are defined in IRC 7430(c)(1) and explained in Treas. Reg. 301.7430-4(c)(3). They include reasonable court costs; and based upon prevailing market rates for the kind or quality of services furnished, reasonable expenses of expert witnesses, study analysis, engineer reports, and fees paid or incurred for attorney fees based upon defined limitations.
 - b. Administrative costs are defined in IRC 7430(c)(2) and explained in Treas. Reg. 301.7430-4. They are any costs described in the regulation that are incurred in connection with an administrative proceeding and incurred on or after the administrative proceeding date.

Exhibit 8.7.15-1 (Cont. 2) (10-01-2012)
Definitions Common in IRC 7430 Cases

16. Substantially justified is defined in IRC 7430(c)(4)(B) and explained in Treas. Reg. 301.7430-5(c). The position of the IRS is substantially justified if it has a reasonable basis in both fact and law. A significant factor in determining whether the position of the IRS is substantially justified as of a given date is whether, on or before that date, the taxpayer has presented all relevant information under the taxpayer's control and relevant legal arguments supporting the taxpayer's position to the appropriate IRS personnel.

Exhibit 8.7.15-2 (11-06-2007)
Sample Form 9333

Internal Revenue Service

Department of the Treasury

Under IRC 7430 of the Internal Revenue Code, pertaining to administrative costs,
(Taxpayer's Name, Address, and Identification Number)

makes the following agreement with the Commissioner of Internal Revenue:

It is hereby determined and agreed that the following reasonable administrative costs are recoverable from the Internal Revenue Service:

Fees paid for the services of a qualified representative

1994 40 hours @ \$ 98.88 per hour =	\$ 3,955.20
1995 30 hours @ 101.41 per hour =	\$ <u>3,042.30</u>
	\$ 6,997.50
Expenses of expert witness =	\$ 5,495.00
Cost of engineering report and testing =	\$ 2,200.00
Total recoverable costs	\$14,692.50

Form 9333 (5-99)

Internal Revenue Service

Department of the Treasury

Under IRC 7430 of the Internal Revenue Code, pertaining to administrative costs,
(Taxpayer's Name, Address, and Identification Number)

Exhibit 8.7.15-2 (Cont. 1) (11-06-2007)
Sample Form 9333

makes the following agreement with the Commissioner of Internal Revenue:

It is hereby determined and agreed that the following reasonable administrative costs are recoverable from the Internal Revenue Service:

Cost incurred between June 30, 1996, and December 1997:

Fees paid for the services of a qualified representative, 40 hours @ \$110.00 per hour = \$4,400.00

Cost incurred in 1998:

Fees paid for the services of a qualified representative, 60 hours @ \$120.00 per hour = \$7,200.00

Expenses of expert witness = \$2,800.00

Cost of engineering report and testing = \$2,000.00

Total recoverable costs \$16,400.00

Form 9333 (1-91)

This agreement on administrative costs is final and conclusive on the types of costs listed in this agreement except:

Damages equaling the total amount of costs in this agreement, plus all costs of litigation shall accrue in favor of the United States of America in the event of fraud, malfeasance, or misrepresentation of material fact.

By signing this agreement, the above parties certify that they have read and agreed to its terms.

Your signature _____ Date signed _____

Spouse's signature (if related to a joint
 return) _____ Date signed _____

Taxpayer's representative _____ Date signed _____

Taxpayer (other than individual) _____

Exhibit 8.7.15-2 (Cont. 2) (11-06-2007)
Sample Form 9333

By _____ Date signed _____

Title _____

Accepted for the Commissioner of Internal Revenue

By _____ Date signed _____

Title _____

Form 9333 (1–91)

**Exhibit 8.7.15-2 (Cont. 3) (11-06-2007)
Sample Form 9333****Instructions**

This agreement must be signed and filed in triplicate. (All copies must have original signatures.)

The original and copies of the agreement must be identical.

The name of the taxpayer must be stated accurately.

The agreement may relate to one or more tax years.

If an attorney or agent signs the agreement for the taxpayer, the power of attorney (or a copy) authorizing that person to sign must be attached to the agreement. If the agreement is made for a year when a joint income tax return was filed by a husband and wife, it should be signed by, or for, both spouses. One spouse may sign as agent for the other if the document (or a copy) specifically authorizing that spouse to sign is attached to the agreement.

If the fiduciary signs the agreement for a decedent or an estate, an attested copy of the letters testamentary or the court order authorizing the fiduciary to sign, and a certificate of recent date that the authority remains in full force and effect, must be attached to the agreement. If a trustee signs, a certified copy of the trust instrument or a certified copy of extracts from that instrument must be attached showing:

- (1) The date of the instrument;
- (2) That it is or is not of record in any court;
- (3) The names of the beneficiaries;
- (4) The appointment of the trustee, the authority granted, and other information necessary to show that the authority extends to federal tax matters; and
- (5) That the trust has not been terminated, and that the trustee appointed is still acting. If a fiduciary is a party, Form 56, Notice Concerning Fiduciary Relationship, is ordinarily required.

If the taxpayer is a corporation, the agreement must be dated and signed with the name of the corporation, the signature and title of an authorized officer or officers, or the signature of an authorized attorney or agent. It is not necessary that a copy of an enabling corporate resolution be attached.

Form 9333 (1-91)

Exhibit 8.7.15-3 (10-01-2012)**IRS Administrative Costs Data Sheet**

A. TAXPAYER IDENTIFICATION NUMBER AND TAX PERIOD(S): _____

B. TAXPAYER (PAYEE) NAME(S) AND ADDRESS: _____

C. AMOUNT TO BE PAID: _____

D. LEGAL AUTHORITY FOR PAYMENT: 26 U.S.C. 7430(a)(1) AND 7430(d)(1). There were reasonable administrative costs incurred in connection with this administrative proceeding with the government.

E. DEBTS PAYEE OWES U.S. (IF KNOWN): _____

F. BREAKDOWN OF ADMINISTRATIVE COSTS: _____

EXPENSES OF EXPERT WITNESSES: \$ _____

Exhibit 8.7.15-3 (Cont. 1) (10-01-2012)
IRS Administrative Costs Data Sheet

COST OF STUDY, ANALYSIS, ETC.: \$ _____

ATTORNEY FEES: \$ _____

Total: \$ _____

APPROVED FOR PAYMENT:

DIRECTOR, Policy, Planning, Quality & Analysis

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