



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

SMALL BUSINESS/SELF-EMPLOYED DIVISION

September 30, 2015

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Impacted: IRM 5.8.7

MEMORANDUM FOR DARREN GUILLOT
DIRECTOR, FIELD COLLECTION

CHERYL CORDERO
DIRECTOR, SPECIALTY COLLECTION OFFERS, LIENS &
ADVISORY

FROM: Kristen E. Bailey */s/ Kristen E. Bailey*
Director, Collection Policy

SUBJECT: Interim Guidance for Communications with Appeals

This memorandum reissues guidance on communications with Appeals for IRM 5.8.7 until a revision to the IRM is published. Guidance in the initial memorandum referencing IRM 5.1.9 and IRM 5.7.6 has been incorporated into the respective IRM sections. Please ensure this information is distributed to all affected employees within your organization.

Purpose: This clarifies the procedures to follow when it is necessary to send supplemental information to Appeals.

Background: While the administrative appeals file transmitted to Appeals should be complete and sufficient for Appeals to consider the issue, there may be rare instances where Collection later secures significant new information that needs to be provided to Appeals to allow Appeals to fully evaluate an issue. In these rare instances, supplemental information can be provided to Appeals as long as the taxpayer/representative is furnished a copy of the written communication at the same time. Appeals will give the taxpayer a chance to respond to the supplemental information.

This communication is permissible under the ex parte communication rules since the taxpayer/representative is given an opportunity to participate. Refer to [Revenue Procedure 2012-18](#), Section 2.01(1), *Ex Parte Communication* and Section 2.01(3), *Opportunity to Participate*.

Procedural Change: See attached changes to IRM 5.8.7.7.6, *Ex Parte Issues when Rejected Offer Appealed*.

Effect on Other Documents: This guidance will be incorporated into IRM 5.8.7 not more than one year from the date of this memorandum.

Contact: If you have any questions, please feel free to contact me, or a member of your staff may contact Senior Program Analyst Thomas B. Moore. Field personnel should direct any questions, through their management staff, to the appropriate Area contact.

Attachment

cc: Director, Collection
Director, Headquarters Collection
Area Directors, Field Collection
Chief, Appeals
www.irs.gov

Attachment to Interim Guidance Memorandum
SBSE-05-0915-0059

IRM 5.8.7.7.6 - Ex Parte Issues when Rejected Offer Appealed – Is revised to add a new (7) which provides procedures for sending supplemental information to Appeals. Current (7) is renumbered to (8).

(7) There may be rare instances, after the taxpayer's request for Appeals consideration of a rejected offer in compromise has been forwarded to the Office of Appeals, that Collection will secure significant new information that needs to be provided to Appeals to allow Appeals to fully evaluate the offer in compromise. In these rare instances, supplemental information can be provided to Appeals as long as Collection concurrently provides the same information to the taxpayer/representative. Appeals will give the taxpayer/representative the chance to respond to the supplemental information.

When supplemental information is provided to Appeals, the group manager will prepare a letter to the taxpayer/representative that identifies the new information and explains that the information is being provided to Appeals. Include a copy of the written communication to Appeals and any documents being sent to Appeals. Document issuance of the letter in the AOIC remarks or ICS history and include a copy of the letter with the supplemental information sent to Appeals.

Example: After forwarding the taxpayer's request for Appeals consideration, the OE/OS is provided information from a revenue officer indicating that the taxpayer failed to disclose a significant asset on his/her financial statement and research conducted by the OE/OS did not reveal the existence of the asset. The OE/OS seeks group manager concurrence that this is significant new information that needs to be shared with Appeals. The group manager concurs and issues a letter to the taxpayer/representative with the information to be shared with Appeals (including copies of any documents/memos/letters being sent to Appeals) and sends the supplemental information to the Appeals team manager along with a copy of the letter sent to the taxpayer/representative.

Reminder: The ability to provide significant new information after the case file is forwarded to Appeals does not relieve the OE/OS of completing a thorough evaluation of the taxpayer's offer and ensuring a complete rebuttal is prepared prior to sending the case file to Appeals.

Note: This procedure should only be followed when assets are discovered by the OE/OS which were **not** disclosed by the taxpayer during the OIC or the information which would impact the offer determination was concealed by the taxpayer during the offer investigation. This procedure should **not** be used to provide to Appeals information from the further development of assets that **were** disclosed by the taxpayer during the OIC consideration unless the additional information was concealed by the taxpayer during the offer investigation.