



INDEPENDENT OFFICE
OF APPEALS

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, DC 20224

November 6, 2023

Control No. AP-08-1123-0011
Expiration Date: 11/06/2025
Affected IRM: 8.7.9

MEMORANDUM FOR IRS INDEPENDENT OFFICE OF APPEALS (APPEALS)
EMPLOYEES

FROM: Patrick E. McGuire /s/ *Patrick E. McGuire*
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SUBJECT: Interim Guidance Memorandum on Appeals Procedures for
the Joint Committee on Taxation (JCT) Program

Purpose: This memorandum issues interim guidance (IG) on [IRM 8.7.9.1.3](#), Responsibilities, [IRM 8.7.9.8.5](#), Review and Approval by Appeals JC Program Analyst (AJCPA), [IRM 8.7.9.5](#), Selection of Large Deficiency Cases for JC Review, [IRM 8.7.9.10.1](#), Informal Inquiries from the JCT and [IRM 8.7.9.10.2](#), Formal Inquiries from the JCT - Staff Review Memorandum (SRM) and the related subsections.

Background/Source of Authority: The Joint Committee on Taxation (JCT) has reevaluated the large deficiency program and provided the IRS Independent Office of Appeals (Appeals) with a revised letter mandating specific changes. Because the JCT Large Deficiency Letter contains procedures that are a deviation from current Appeals procedures and the JCT inquiry procedures have been modified, this interim guidance is being issued. This IG also includes procedures for when an inquiry is received from the JCT.

Procedural Change: Current procedures for the selection of large deficiency cases are by "selection area". See [IRM 8.7.9.5](#). Under the revised procedures, large deficiency cases will not be selected by area. Also, changes include more detailed procedures to resolve JCT inquiries.

Guidance on Electronic Submission of JC Reports can be found in IG [AP-08-0622-0007](#), Appeals Procedures for Electronic Submissions to the Joint Committee on Taxation (JCT) until it is incorporated into [IRM 8.7.9.8.7](#).

Effect on Other Documents: This guidance will be incorporated into IRM 8.7.9 within two years of the date of this memorandum.

Effective Date: This IG is effective as of the date of this memorandum.

Contact: Appeals employees should follow existing procedures to elevate questions through their management chain and follow established procedures on [How to Contact an Analyst](#).

Attachment: Appeals Procedures for the Joint Committee on Taxation (JCT) Program.

Distribution:

cc: www.irs.gov

IRM 8.7.9.1.3, Responsibilities

Under (2), revise b and add e.

(2) The Appeals Joint Committee Program Analyst (AJCPA) is responsible for:

b. Reviewing packages prior to submission to the JCT.

e. Maintaining and disseminating monthly reports, which track pending: (i) Staff Review Memoranda (SRMs) and (ii) informal written inquiries received by the Chief of Appeals (Chief) and/or Deputy Chief of Appeals (Deputy).

IRM 8.7.9.3, Cases Requiring JC Review

Revise (4)

(4) The JCT will conduct their post-audit review activities by requesting a number of large deficiency cases under the general authority of IRC 8022 and IRC 8023, and the Service shall disclose to JCT necessary return information to review such large deficiency cases pursuant to IRC 6103(f). See [IRM 8.7.9.8.1.6](#).

IRM 8.7.9.5, Selection of Large Deficiency Cases for JC Review

Obsolete paragraphs (1), (2), (6) and the note in (3)

~~(1) Every six months, each "selection area" (each numbered geographic Appeals designated area, the Domestic/International Operations function, and the ATCL function) will submit reports to the JCT on the largest deficiency cases closed in that "selection area" by Appeals during that six month period.~~

~~(2) The specific number of cases from each selection area will be designated by the Appeals JC Program Analyst (AJCPA), subject to approval by the JCT Senior Refund Counsel.~~

~~(3) Deficiency cases reported to the JCT should be restricted to the types of taxes reportable as refunds or credits under [IRC 6405](#) (e.g., taxes imposed under Chapter 32 or Chapter 45 would not be reported).~~

~~Note: If the largest deficiency cases closed are from the same office within the selection area, select the next largest cases closed from the other offices in the "selection area." **No office will submit all selected cases from a selection area.** The selection process will require coordination within the selection area.~~

~~(4) The reports for the period ending March 31 will be submitted on or before the last day of July, and the reports for the period ending September 30 will be submitted on or before the last day of January.~~

(5) In considering what constitutes the largest deficiency cases closed for the six-month period, do not consider:

- a. An unagreed docketed case transferred to Counsel;
- b. An unagreed case considered in non-docketed status by Appeals which is then petitioned to and docketed in the U.S. Tax Court;
- c. A case that has been or will be reported to the JC as an overpayment case (overpayment cases should have a Feature Code of "JC" – including cases with initially proposed deficiencies, in order to identify them and avoid duplicate reporting as a deficiency case);
- d. Special Enforcement Program (SEP) cases, including High Level Drug Leaders Tax Enforcement Project (DEP) cases; or
- e. Under reporter cases.

~~(6) If a case is split with some years moving to a non-reporting category, the years remaining in a reporting category will, at closing, be considered to determine the size of the case for reporting purposes.~~

(7) Consider incoming deficiency amounts, not closing amounts, even if the final determination is a refund.

(8) Time applied to preparing the JC large deficiency package is charged to "Reports" in CARATS.

IRM 8.7.9.8.5, Review and Approval by Appeals JC Program Analyst

Revise (1), (2) and (3); obsolete paragraphs (4), (5) and (6)

(1) Once the refund or large deficiency report has been completed, the ATE/ATM will use encrypted e-mail to send electronic copies of the following documents to the AJCPA for review and approval:

- JC report. See [IRM 8.7.9.8.4.3](#)
- Attachments to the JC Report. See [IRM 8.7.9.8.4.4](#)
- [Form 4081](#), *Transmittal Memorandum - Joint Committee Case*
- [Form 5482](#), *Record of Disclosure*, if applicable. See [IRM 8.7.9.6.8](#)

(2) The AJCPA will review the report.

- If no problems are noted, the AJCPA will notify the ATE by encrypted email to provide the JC package electronic submission to the AJCPA, who will submit it to the JCT.

- If problems with the content of the JC report are noted, the AJCPA will respond by encrypted email with recommended changes.
- After the corrections have been made, return the revised report by encrypted email to the AJCPA for review.
- If no further problems are noted, the AJCPA will notify the ATE by encrypted email to provide the assembled JC electronic package to the AJCPA, who will submit it to the JCT.

(3) Refer to guidance on Electronic Submission of JC Reports. ~~See [IRM 8.7.9.8.7](#) for addresses and shipping instructions.~~

~~(4) See [IRM 8.7.9.8.7](#) for addresses and shipping instructions.~~

~~(5) The AJCPA will also address questions concerning JC issues and procedures. The AJCPA will document all questions on a separate email that will include:~~

- ~~1. Date of question~~
- ~~2. Name of the case~~
- ~~3. Name of ATE~~
- ~~4. Facts presented~~
- ~~5. Items reviewed~~
- ~~6. Recommended actions to resolve issue~~
- ~~7. Copy of recommended actions emailed to ATE with a copy to the Policy Exam Manager~~

~~(6) The AJCPA will run periodic reports to monitor all JC cases in Appeals to ensure all cases subject to JC procedures are submitted timely to the JCT.~~

IRM 8.7.9.10.1, Informal Inquiries from the JCT

Revise (2), (3) and (4); add (5), as follows:

(2) These inquiries will be treated with the highest priority. Appeals will cooperate with the staff attorney to the fullest extent to resolve any questions raised. Responses may be made by telephone or by email.

(3) Email responses must not contain PII or SBU data. Do not use the taxpayer's name in the "Subject" line. Email responses that do contain PII and/or SBU data must be in a secure zipfile and sent to the AJCPA with the passphrase sent in a separate encrypted email to the AJCPA. The AJCPA will submit the response containing PII and/or SBU data to the JCT.

Caution: Encryption methods do not encrypt the subject line or the header (email address information).

Note: See also Emails to Taxpayers and Representatives in [IRM 10.5.1.6.8.1](#) for subject line and header requirements.

(4) Normally, this type of response does not involve a significant delay and will not require contact with the taxpayer. A premature contact with the taxpayer could convey the impression that the JCT is having serious problems with reviewing and clearing the JC report. However, see [IRM 8.7.9.10.2.1\(6\)](#), if a lengthy delay may be involved.

(5) Informal written inquiries issued by the JCT to the Chief and/or Deputy are handled following the procedures in [IRM 8.7.9.10.1.1](#).

IRM 8.7.9.10.1.1, Tracking Informal Inquiries

Revise (2) and (3) and add (4) through (7), as follows:

(2) ATE will notify their ATM and the AJCPA by encrypted email when and how the inquiry was resolved.

(3) The ATE will notify the AJCPA of all follow-up contacts/questions to the initial inquiry.

(4) When the Chief and/or Deputy receives an informal written inquiry, they will send a copy, via encrypted email, to the AJCPA who will input it into the Monthly JC Report per the date of the inquiry and will send a copy of the inquiry, via encrypted email, to the following recipients:

- Area Director (AD)
- Director, Examination Appeals
- Director, Specialized Examination Programs and Referrals (SEPR) (if applicable)
- Senior Operations Advisors (SOAs)
- SEPR Tax Law Specialist (if applicable)

Note: A reminder should be included in the encrypted email that an initial discussion will be scheduled within 7-10 days.

(5) Within 7-10 days of receipt, the Chief's office and AJCPA will schedule an initial discussion, focused on basic information and next steps. Participants include the Chief and/or Deputy, Senior Level Advisor to the Chief, Senior Advisor to the Chief, Director, Examination Appeals, Director, SEPR, SOAs, AD, ATM, ATE, specialists and all other Appeals individuals involved with the issue the JCT is reviewing. The AJCPA will distribute the ACM to the attendees in advance of the meeting.

(6) The Chief and/or Deputy and the Senior Level Advisor to the Chief will consider information provided by the team, request additional follow-ups as needed and respond to the JCT. The Chief's office will notify the AJCPA, Director, Examination Appeals, Director, SEPR, and AD of how the inquiry was resolved.

(7) The Chief and/or Deputy, Senior Level Advisor to the Chief, Senior Advisor to the

Chief, Director, Examination Appeals, Director, SEPR, and their SOAs and AJCPA will meet monthly to review the report, which tracks pending: (i) SRMs and (ii) informal written inquiries received by the Chief and/or Deputy and provide high-level status updates.

IRM 8.7.9.10.2.1, SRM Procedures and Tracking - Response Required

Revise (1), (3) through (11) and add (12) through (17) and note in (1) and (4) as follows:

(1) The JCT will email the SRM to the AJCPA, who will input it into the Monthly JC Report per the date of the SRM. The AJCPA will send a copy, via encrypted email, of the SRM to the following recipients:

- Chief and/or Deputy
- Senior Level Advisor to the Chief
- Senior Advisor to the Chief
- Directors, Examination Appeals and SEPR
- SOAs
- ADs
- Specialist management
- SEPR Tax Law Specialist
- ATE, ATM, and Technical Advisor

Note: A reminder should be included in the encrypted email that an initial discussion will be scheduled within 30 days.

(3) Within one month of receipt, the Chief's office and AJCPA will schedule an initial discussion, focused on planning next steps, a timeline, and general observations or questions. The discussion will include the following individuals:

- Chief and/or Deputy
- Senior Level Advisor to the Chief
- Senior Advisor to the Chief
- Directors, Examination Appeals and SEPR
- SOAs
- ADs
- Specialist management
- SEPR Tax Law Specialist
- ATE, ATM, and Technical Advisor

(4) The AJCPA will disseminate the ACM to the attendees in advance of the meeting. The SRM, ACM, taxpayer's protest, and Compliance's rebuttal should be reviewed prior to the meeting.

Note: The Chief's office will schedule case-specific follow ups at agreed intervals (generally not to exceed 60 days) until the case is resolved. The AJCPA will be included as an optional attendee for tracking.

(5) If a statutory notice of deficiency or a statutory notice of claim disallowance is issued as a result of a SRM, the ATM will include a copy of the notice with the draft response to the AD. Similarly, if the taxpayer signs a waiver of statutory notice of claim disallowance, the ATM will follow the same procedures.

(6) The ATE and ATM will brief the AD, Director, Examination Appeals, and the Senior Level Advisor to the Chief, as well as all specialists and their ATMs on the proposed SRM response.

(7) If coordinated issues or issues involving Technical Specialist assignment are present, the AD will coordinate with the Director, Technical Guidance and/or Director, International.

(8) The AD will finalize the draft response. This will include input from the Director, Technical Guidance and/or Director, International when coordinated issues or issues involving Technical Specialist assignment are present.

(9) The AD will send the final draft response to the Director, Examination Appeals along with material for their consideration via encrypted email. The AD will also forward it to the Director, SEPR when coordinated issues or issues involving Technical Specialist assignment are present. If warranted, the individuals may plan a conference call to discuss.

(10) The Director, Examination Appeals and the Senior Level Advisor to the Chief will discuss proposed next steps with the Chief and/or Deputy.

(11) The Director, Examination Appeals will send the final draft response, via encrypted email, to the Senior Level Advisor to the Chief including a copy of the original SRM and briefings, to the following individuals for final review and signature by the Chief:

- AD
- SEPR Tax Law Specialist
- AJCPA

(12) The Senior Level Advisor to the Chief will review the SRM response and provide recommendations to the Chief and/or Deputy or questions to the responsible AD (copying the Director, Examination Appeals) within 30-45 days. The Senior Level Advisor to the Chief will notify the AJCPA of the date the response is submitted from the Senior Level Advisor to the Chief. The Chief and/or Deputy will review the recommendation, draft a response and provide comments as needed. The Chief's office will schedule any necessary follow-up meetings (copying AJCPA for tracking). Prior to signature, the Chief's office will send, via encrypted email, a copy of the final draft SRM response to the AD (copying the Director, Examination Appeals, Director, SEPR, and the SEPR Tax Law Specialist) for review.

(13) The Chief's office will format and prepare the SRM response for the Chief's or Deputy's signature and send, via encrypted email, a copy of the signed package to AJCPA (copying the Senior Level Advisor to the Chief).

(14) The AJCPA will email a copy of the signed memo to the JCT Senior Refund Counsel, the Director, Examination Appeals, AD, and SEPR Tax Law Specialist.

(15) If, as a result of the concerns/issues raised by the JCT in the SRM, a revised JC report will be submitted, the ATE should contact the AJCPA. The AJCPA will coordinate submission of the revised report to the JCT along with the copy of the signed memo.

(16) The AJCPA will maintain an Excel spreadsheet which captures the dates of receipt and final response to the SRM.

(17) The Chief and/or Deputy, Senior Level Advisor to the Chief, Director, Examination Appeals, Director, SEPR, and AJCPA will meet monthly to review the report, which tracks pending: (i) SRMs and (ii) informal written inquiries received by the Chief and/or Deputy and provide high-level status updates.

8.7.9.10.2.2, SRM Procedures and Tracking - No Response Required

Revise (2) as follows:

(2) The AJCPA will forward the SRM to the ATE in the same manner as a clearance letter. Once the SRM release letter has been received, the case may be processed or closed.