



TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

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

Date: October 13, 2015  
Control Number: TE/GE-04-1015-0023  
Expiration Date: October 12, 2017  
Impacted IRM: 4.90.1, 4.90.9 and 4.23.6

MEMORANDUM FOR FEDERAL, STATE AND LOCAL GOVERNMENT EMPLOYEES  
FROM: Paul Marmolejo, Director /s/ *Paul A. Marmolejo*  
Federal, State and Local Governments  
SUBJECT: Classification Settlement Program (CSP) Procedures for  
Taxpayers covered by Section 218 Agreements

This memorandum issues guidance on CSP Agreement signature authority for workers who may be covered by agreements under Section 218 of the Social Security Act until IRM 4.90.1, 4.90.9 and 4.23.6 are updated.

**Purpose:** To provide new procedures for offering and executing CSP agreements for worker classification issues for taxpayers covered by agreements under Section 218 of the Social Security Act. When this memo is issued, FSLG field managers are authorized to sign CSP agreements for taxpayers covered by Section 218 agreements under Delegation Order 7-13 (Rev. 1) (IRM 1.2.46.14).

**Background/Source(s) of Authority:** CSP was developed as an administrative remedy to address and reduce taxpayer burden in worker classification audits using common law rules. The program is intended to resolve the issues by written agreement between the taxpayer and the IRS. The terms of a CSP include the taxpayer's agreement to reclassify the subject workers as employees prospectively. Extending the CSP to taxpayers covered by Section 218 agreements is in the best interest of fair and equitable tax administration.

**Procedural Change:** Taxpayers covered by Section 218 agreements are now eligible for CSP. When audits include worker classification issues for taxpayers covered by Section 218 agreements, evaluate CSP eligibility using guidelines in IRM 4.23.6, *Classification Settlement Program*, with the exception of 4.23.6.7(1) and 4.23.6.8(11), which no longer apply.

If a FSLG taxpayer covered by a Section 218 agreement qualifies for CSP, use Forms 14491 and 14492 as outlined in IRM 4.23.6.

**Section 530 Limitations:** The IRS' position, discussed in PLR 9336005 (June 2, 1993), is that when a FSLG taxpayer with a Section 218 Agreement covering the subject workers qualifies for

relief under Section 530 of the Revenue Act of 1978, that relief doesn't apply to FICA taxes although Section 530 relief might be available for income tax withholding liabilities.

CSP Forms 14491 and 14492 include numbered paragraphs stating that the taxpayer waives any claim it may have to Section 530 relief. This general waiver doesn't depend on whether the taxpayer actually had any claim to Section 530 relief; it simply states that the taxpayer waives whatever claim it had. Specialists should not use CSP Form 14490 because it doesn't contain a provision for the taxpayer to waive Section 530 relief.

**CSP Agreements transmitted to the CSP Coordinator:** Most CSP Agreements will be 100% electronic and these must be emailed to the FSLG CSP Coordinator by the manager prior to the case being closed. The documents required include Forms 14491 or 14492, the CSP Settlement Memorandum, Forms 2504-WC, 4666, 4668, 886-A and the list of subject workers. This list includes the workers' names, SSNs and positions that are being reclassified, as well as the remuneration paid to each worker. In cases where the \$250,000 dollar tax threshold is met, the paper documents identified above, with original signatures on Forms 2504-WC and 14491 or 14492 must be mailed to the CPM CSP Coordinator at:

Internal Revenue Service  
T:GE: FSLG:CPM  
ATTN: Closing Agreement Coordinator  
1111 Constitution Avenue NW  
NCA 534-10  
Washington, D.C. 20224-0002

**Effect on Other Documents:** This guidance supersedes Interim Memo # 58 (TE/GE 04-0415-0010) and will be incorporated into IRM 4.90.1, 4.90.9 and 4.23.6 by October 12, 2017.

**Effective Date:** This memorandum is effective when issued.

**Contact:** If you have any questions, please contact Kathleen Rodegeb, CPM Manager, at (925) 974-3827.

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