



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, DC 20224

INDEPENDENT OFFICE
OF APPEALS

December 29, 2025

Control No. AP-08-1225-0051
Expiration Date: 12/29/2027
Affected IRMs: 8.6.1, 8.7.11

MEMORANDUM FOR IRS INDEPENDENT OFFICE OF APPEALS EMPLOYEES

FROM: Steven M. Martin /s/ *Steven M. Martin*
Director, Operations Support

SUBJECT: Participation in Appeals conferences by IRS employees

Purpose: This memorandum provides guidance to IRS Independent Office of Appeals (Appeals) employees regarding Compliance and Counsel participation in conferences. Please distribute this information to all impacted employees within your organization.

Background/Source(s) of Authority: Certain cases requiring specialized expertise have been subject to a “pre-conference” meeting where Compliance (and often their Counsel attorneys) present their position, comment on the taxpayer’s protest, and explain their rebuttal. See IRM 8.7.11.11, Pre-Conference Meeting, and IRM 8.7.4.6, Preconferences in Estate and Gift Tax Cases. Appeals, however, does not routinely invite Compliance or Counsel to attend conferences, although it has the discretion to allow such participation under IRM 8.6.1.5.4, Participation in Conferences by IRS Employees. See also, Treas. Reg. § 601.106(f)(4), (8) (as amended by 32 FR 15990), and Rev. Proc. 2016-22, Section 3.11. The discretion to invite Compliance/Counsel participation can be a valuable tool that allows Appeals technical employees (ATEs) to hear from both sides in real time to clarify factual disagreements and the parties’ legal positions.

Procedural Change: To ensure consistency and transparency regarding IRS employees’ participation in Appeals conferences, this guidance adds the following:

- Considerations and parameters for allowing Compliance/Counsel participation in conferences;
- A requirement for managers to approve participation in cases not assigned to Appeals Team Case Leaders (ATCLs);

- The requirement that ATEs hold a pre-planning meeting ("Expectations Meeting") with all parties when Compliance/Counsel will participate in the conference; and
- The requirement that ATEs prepare an agenda for the Expectations Meeting, with a sample agenda provided.

Effect on Other Documents: This guidance will be incorporated into the affected IRMs listed above within two years from the date of this memo.

Effective Date: This guidance 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

cc: www.irs.gov

IRM 8.6.1.5.4

Participation in Conferences by IRS Employees

Revised paragraph (1), renumbered former paragraph (2) to (7), added new paragraphs (2) – (6)

- (1) In the vast majority of cases, the conference is held only between the taxpayer/representative and Appeals. Appeals, however, has the discretion to invite Compliance and/or Counsel to the non-settlement portion of the conference. The discretion to allow Compliance and/or Counsel participation rests solely with the Appeals Team Manager (ATM) for non-ATCL cases and the ATCL on their respective cases. The prohibition against ex parte communications must not be violated. See Rev. Proc. 2012-18, and IRM 8.1.10, Ex Parte Communications. Appeals may also request that other experts attend conferences.
- (2) When Compliance and/or Counsel requests to participate in non-ATCL conferences, ATEs must receive permission from their ATM before accepting the request.
- (3) The non-settlement portion of the conference takes place between Appeals and the taxpayer/representative. If Compliance and/or Counsel attends, it may become an interactive session in which Compliance and the taxpayer/representative discuss the relevant facts and the law from their perspectives, respond to each other's presentations, and answer Appeals' clarifying questions in real time to facilitate everyone's understanding of the dispute and the position of each side.

Caution: The non-settlement portion of the conference is separate and distinct from the pre-conference meeting governed by IRM 8.7.11.11, Pre-Conference Meeting, or IRM 8.7.4.6, Preconferences in Estate and Gift Tax Cases.

- (4) The settlement discussion is strictly between the taxpayer and/or representative and Appeals. Appeals and the taxpayer and/or representative discuss possible resolutions during the settlement portion of the conference. Compliance and/or Counsel must be excluded from the settlement portion of the conference.
- (5) In exercising their discretion to allow Compliance and/or Counsel to participate in the non-settlement portion of the conference, ATMs and ATCLs should consider the following non-exhaustive list of factors:
 - Whether the issues in the case are complex;
 - Whether the case involves witnesses, subject matter experts, and/or outside experts;
 - Whether the case or issue has nationwide or industry-wide impact or importance;
 - Whether the case involves oral testimony; and
 - Whether the case involves an issue of first impression or an issue where precedent is lacking or conflicting.
- (6) Appeals' exercise of discretion to allow or disallow Compliance and/or Counsel to participate in the non-settlement portion of the conference is final and not subject to administrative or judicial review.

(7) See other IRM Part 8 sections for participation by IRS employees in cases under the Alternative Dispute Resolution (ADR) Program. This includes IRM 8.26.5.5.7, Participants, that reflects Appeals' discretion to have Counsel, the originating function, or both, participate in a Post-Appeals Mediation proceeding for a Non-Collection Case.

IRM 8.6.1.5.4.1

Expectations Meeting (New)

(1) For both ATCL and non-ATCL cases, when Compliance and/or Counsel is allowed to participate in the non-settlement portion of the conference, a planning meeting (the Expectations Meeting) must be held beforehand unless waived by the taxpayer/representative. The purpose of the Expectations Meeting is to prepare for the case conference. The Expectations Meeting will include Compliance and/or Counsel, the Appeals team, and the taxpayer/representative. It may be necessary to hold separate Expectations Meetings if it is not possible to find a mutually agreeable date and time for all participants.

Caution: If circumstances require that an Expectations Meeting be held separately with Compliance and/or Counsel, ensure that the discussion remains strictly on administrative and procedural matters to avoid inadvertent ex parte violations. Consider reminding parties of the ex parte communication rules at the beginning of the meeting. See IRM 8.1.10.4, Communications with Originating Functions. While Counsel is not an originating function, Counsel employees are subject to ex parte rules in certain situations. See Rev. Proc. 2012-18, IRM 8.1.10.4.1.5, Docketed Cases, and IRM 8.1.10.4.4, Communications with Counsel, for the application of ex parte communications rules to Counsel.

(2) Expectations Meetings are mandatory unless the taxpayer/representative chooses to waive the meeting requirement. A written waiver is not required but is recommended to avoid possible misunderstandings. If a verbal waiver is obtained from the taxpayer/representative, the ATE must document the waiver in the case activity record. If the taxpayer waives the requirement to hold an Expectations Meeting, the Appeals team still retains the discretion to hold one with Compliance and/or Counsel regardless of the waiver.

(3) The purpose of an Expectations Meeting is to cover administrative and procedural matters, such as the agenda for the Appeals conference and expectations as to roles and responsibilities. The meeting provides the participants with an opportunity to raise questions or concerns about the upcoming conference. Most Expectations Meetings will include such topics as:

- a. Confirmation of issues and documents in Appeals' file;
- b. Date, location, and format of the conference (in-person, virtual, hybrid);
- c. Structure of conference and ground rules;
- d. Participant list; and
- e. Supplementary matters (e.g., new information rules, computation issues, statute issues, joint committee process).

- (4) Prepare an agenda to ensure the meeting is productive and addresses the necessary topics. See IRM Exhibit 8.6.1-2 for a sample agenda. Each agenda should be customized to the case.

IRM 8.7.11.2.2**Compliance and/or Counsel Participation in Appeals Conferences (New)**

- (1) The discretion to invite Compliance and/or Counsel rests solely with the ATCL or the ATM for non-ATCL cases. When either function is allowed to participate in the non-settlement portion of the conference, an Expectations Meeting must be held beforehand unless waived by the taxpayer. See IRM 8.6.1.5.4, Participation in Conferences by IRS Employees.
- (2) Compliance and/or Counsel must be excused from the settlement portion of the conference (as defined in IRM 8.6.1.5.4). The settlement discussion is strictly between the taxpayer and/or representative and Appeals.

IRM Exhibit 8.6.1-2 – Sample Expectations Meeting Agenda

ABC, Inc.
Appeals Conference Expectations Meeting
Date/Time

1. Introductions

- a. Taxpayer/Representative
- b. Examination Team/Counsel
- c. Appeals Team

2. Purpose of Expectations Meeting

- a. To act as a planning meeting to prepare for the conference
- b. To discuss administrative and procedural matters related to the conference
- c. To address any questions or concerns

3. Administrative Matters

- a. Conference details – *Potential topics include:*
 - i. Date/time/location of conference
 - ii. Due date for Examination's and the Taxpayer's list of conference attendees
 - iii. Due date for Examination's and the Taxpayer's presentations (if applicable)
- b. Case details - *Potential topics include (if applicable):*
 - i. Statute of limitations
 - ii. Joint Committee review
 - iii. Tax Equity and Fiscal Responsibility Act (TEFRA)/ Bipartisan Budget Act (BBA) – specific procedural requirements
 - iv. Competent Authority/Advance Pricing Agreement (APA)
 - v. Prior & subsequent cycles – Appeals, Docketed, Designated, etc.
 - vi. Involvement by Counsel
 - vii. Fast Track Settlement history
 - viii. Rapid Appeals Process

4. Review the issues that will be addressed:

- a. Confirm specific issues to be conferenced.
- b. Confirm schedule of adjustments.
- c. Address any previously identified barriers to settlement.

- d. Confirm whether there are issues or arguments that are no longer being pursued.

5. Discuss Appeals' role:

- a. Appeals' mission 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 Internal Revenue Service.
- b. The Appeals Team has overall responsibility for:
 - i. Planning and controlling the progress of the conference;
 - ii. Setting appropriate ground rules;
 - iii. Focusing conference participants on a goal to resolve any factual or legal discrepancies while both parties are present;
 - iv. Assessing the strengths and weaknesses of both sides; and
 - v. Deciding the disputed issues.

6. Set expectations and agenda for the conference:

- a. Each party should be prepared to present their issues and respond to any questions from Appeals.
- b. The goal is for both presentations to provide Appeals with a better understanding of the arguments of the parties. Parties should try to respond to Appeals questions as thoroughly as possible to aid in this process.
- c. Effective communication is essential in resolving the issues.
- d. The Examination Team will lead off with their presentation.
 - i. **[Note:** For those cases governed by IRM 8.7.11.11, Pre-Conference Meeting, or IRM 8.7.4.6, Preconferences in Estate and Gift Tax Cases, item "d" may say instead, "*The pre-conference with the Examination Team will occur first, followed immediately by the conference. During the pre-conference, the Examination Team will make its presentation to Appeals.*" For all cases, the Appeals Team has the discretion to determine who will present first.]
- e. The Taxpayer will have time at the end of Examination's presentation to make comments or ask clarifying questions.
- f. The Taxpayer will then make its presentation to Appeals. The Examination Team will be allowed to remain for the Taxpayer's presentation of the issues. The Examination Team will have time at the end of the Taxpayer's presentation to make comments or ask clarifying questions.
- g. The Examination Team will be excused after both parties have made their presentations, and all relevant questions have been addressed to the satisfaction of the Appeals Team.

- h. Settlement discussions will be conducted exclusively between the Appeals Team and the Taxpayer/Representative.

7. Questions?