

Policy Statement P-4-5 - Restrictions on Examiners' and Specialists' Consecutive Survey or Examination Responsibilities

Effective: June 17, 2019

(1) Restrictions on examiners' and specialists' consecutive examination or survey of taxpayers:

An examiner or specialist may not examine or survey a tax return of a taxpayer for more than 5 consecutive years (60 months) from date of assignment. If the examination is in process at the 5 consecutive year point, the examiner or specialist is allowed to complete the examination provided the current cycle or audit has less than 12 months remaining from the 5 consecutive year point. An examiner or specialist will not be reassigned to the same taxpayer for the examination of one intervening tax period or surveying of two intervening tax periods.

Small Business/Self-Employed (SB/SE) Area and Specialty Examination Director, Large Business and International (LB&I) Practice Area Directors, and Tax Exempt & Government Entities (TE/GE) Directors are responsible for approval of any deviation from the above restriction.

(2) Restriction on LB&I, SB/SE and TE/GE front-line managers' engagement on consecutive examinations or surveys of taxpayers:

LB&I, SB/SE and TE/GE front-line managers may not be engaged in the examination or survey of a taxpayer for more than 5 consecutive years (60 months) from date of assignment. The manager's "date of assignment" starts when his/her employee applies time to the return and the manager is assigned as the case and/or issue manager.

If the examination is in process at the 5-consecutive year point, the manager is allowed to continue engagement in the examination provided the current cycle has less than 12 months remaining from the 5 consecutive year point. Managers cannot be reassigned to the same taxpayer for the examination of one intervening tax period or surveying of two intervening tax periods.

SB/SE Area and Specialty Examination Director, LB&I Practice Area Directors, and TE/GE Directors are responsible for approval of any deviation from the above restriction.

(3) P-4-5 Exceptions. The following employees are excepted from the above general limitations:

- Audit Accounting Aides (AAAs) and Tax Computation Specialist (TCSs)
- SB/SE Specialty Examination front-line managers performing normal recurring responsibilities as a specialty manager.

- Employees who work on a case 200 hours or less per examination cycle including but not limited to: Issue Team members, Tax Law Specialists, Subject Matter Experts, Senior Revenue Agents in mentoring capacity and other advisors.
- Employees assigned to promoter cases.
- Advance Pricing and Mutual Agreement (APMA) program personnel while performing work during Mutual Agreement Procedure (MAP) negotiations or while performing tasks directly related to the consideration of an Advance Pricing Agreement (APA). If an APMA employee is assigned to perform audit work on an examination of a filed return or a Compliance Assurance Process (CAP) tax year examination, this exception does not apply and the regular P-4-5 restrictions are in effect.
- Treaty Assistance and Exchange of Information personnel.
- Employees performing Pre-filing Agreements (PFA), Industry Issue Resolution (IIR) and Advance Pricing Agreement (APA) activities when distinguishable and worked separate from the examination.
- Employees participating in a Pre-Appeal Conferences or reviewing a new argument proposed for an examination in Appeals jurisdiction.

(4) Additional exceptions and clarifications

- When Appeals returns a case to an examination function to re-examine an unagreed issue due to newly submitted facts, an examiner or specialist's consecutive component of the 5-year (60 months) rule is suspended until the case is closed out of examination.
- The consecutive component of the 5 year (60 month) rule is tolled when an examination is suspended. Suspension occurs when the return is placed in an authorized suspense status 14, 15 (ARC 02, 03, 23), 17, 18, 27, 29, 30, 31, 32, 33, 34, 36, 38, and 39 or during the period of joint investigation. Once the return comes out of the suspense status or is no longer under joint investigation, the 5 consecutive year (60 months) timeframe continues (i.e., time before and after tolling is combined).

(5) One Deviation Limit:

In the case of LB&I Division-initiated deviations that are described in sections (1) and (2) above, there is a limit of one deviation per employee/manager per case that may be approved by the Practice Area Director.

In the case of SB/SE and TE/GE Division-initiated deviations that are described in sections (1) and (2) above, there is a limit of one deviation per employee/manager per case or examination that may be approved by the appropriate SB/SE and TE/GE Director.

The one deviation, per employee/manager per case or examination, will be granted to complete the cycle based on the approved examination closure date (ECD) at the time the deviation is granted.

In the rare instance(s) in which additional deviations are required for the same employee(s)/manager(s) for effective tax administration, those deviations will be approved by the Business Operating Division Commissioner (SB/SE, LB&I, and TE/GE) on an individual business case basis after notification to the Deputy Commissioner, Services and Enforcement.

(6) Monitoring responsibilities:

All appropriate levels of managers in LB&I, SB/SE and TE/GE will monitor assignments for their employees to ensure that proper examination rotation practices are followed.

(7) Restrictions on changes in post of duty of employees solely for case rotation:

An employee will not be required to involuntarily transfer from a post of duty solely for case or return rotation purposes unless no reasonable alternative exists. However, changes in posts of duty of an examiner or a specialist may be made when staffing imbalances or other needs of the Service require such action in accordance with applicable IRM and National Agreement provisions.

Signed: Kirsten Wielobob, Deputy Commissioner, Services and Enforcement

Note: This policy statement will be effective when signed by the Deputy Commissioner, Services and Enforcement