



MANUAL TRANSMITTAL

Department of the Treasury
Internal Revenue Service

4.2.7

AUGUST 1, 2025

EFFECTIVE DATE

(08-01-2025)

PURPOSE

- (1) This transmits revised IRM 4.2.7, General Examining Procedures, Ex Parte Communication Procedures.

MATERIAL CHANGES

- (1) Replaced the terms **audit** and **auditor** with **examination** and **examiner** where appropriate.
- (2) Updated references to IRM sections where appropriate.
- (3) Removed the first sentence of IRM 4.2.7.1.1 as it did not apply to the IRM.
- (4) Changed **IRS Examination employees** to **originating function employees** in IRM 4.2.7.1.1(2).
- (5) Added the word **prohibited** to IRM 4.2.7.1.1(2) to emphasize the importance of inappropriate communication.
- (6) Changed the first sentence of IRM 4.2.7.1.2 to clarify the role of Appeals and other IRS functions.
- (7) Changed the wording of IRM 4.2.7.2(1) to better define the audience for Ex Parte communication.
- (8) Added a statement to IRM 4.2.7.3 referencing IRM 8.10.7, Documenting Ex Parte Communications.
- (9) Changed the wording of IRM 4.2.7.4.2(2) for improved clarity.
- (10) Added the word **originating** to **function** in IRM 4.2.7.6(4).
- (11) Added a note to reference IRM 8.1.10.4.4 in IRM 4.2.7.2(5) to specifically address Chief Counsel's role in Ex Parte communication.
- (12) Removed references to obsolete Letter 5326, Rebuttal Letter - EO Examination, in IRM 4.2.7.4.1 and replaced it with Letter 5918, Protest Received Rebuttal/Transfer to Appeals.
- (13) Changed references to Wage and Investment (W&I) to Taxpayer Services (TS) throughout.

EFFECT ON OTHER DOCUMENTS

This manual supersedes IRM 4.2.7, Ex Parte Communication Procedures, dated June 29, 2017.

AUDIENCE

SB/SE, LB&I, TE/GE, and TS Compliance Examination

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4.2.7

Ex Parte Communication Procedures

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4.2.7.1
(08-01-2025)
Program Scope and Objectives

- (1) **Purpose:** This manual focuses on ensuring Ex Parte communication rules are followed and communication between IRS and IRS Independent Office of Appeals (Appeals) employees doesn't compromise or appear to compromise Appeals independence. Topics include:
 - a. Compliance with the Restructuring and Reform Act (RRA) 98 Section 1001(a)(4)
 - b. Sending the administrative file to Appeals
 - c. Reviewing new information on a case in Appeals
 - d. Communicating with Appeals on closed cases
- (2) **Audience:** The procedures in this manual apply to all IRS employees, except for Appeals. Appeals employees follow the procedures in IRM 8.1.10, Appeals Function, Ex Parte Communications.
- (3) **Policy Owner:** Director, Exempt Organizations
- (4) **Program Owner:** Exempt Organizations
- (5) **Primary Stakeholders:** The primary stakeholders are all IRS employees who rely on the IRM for accurate ex parte communication procedures. Appeals follows separate guidance, as mentioned above.

4.2.7.1.1
(08-01-2025)
Background

- (1) This program is committed to ensuring an independent appeals function within the IRS by avoiding ex parte communications that appear to compromise the independence of appeals officers.
- (2) This program provides guidelines defining prohibited *ex parte communications* and communication between originating function employees and Appeals.

4.2.7.1.2
(08-01-2025)
Authority

- (1) See Section 1001(a) of the Internal Revenue Service Restructuring and Reform Act of 1998, Public Law No. 105-206, 112 Stat. 685 (RRA) for prohibited communication between the Office of Appeals and other IRS function employees.
- (2) The initial guidance was provided in Rev. Proc. 2000-43, 2000-2 C.B. 404. Rev. Proc. 2012-18, 2012-10 I.R.B. 455, superseded Rev. Proc. 2000-43.

4.2.7.1.3
(08-01-2025)
Roles and Responsibilities

- (1) All originating functions and Appeals employees share the responsibility to ensure that all communications do not violate the Ex Parte Communication rules.
- (2) All IRS employees share the responsibility to ensure that oral and written communications with Appeals do not compromise or appear to compromise the independence of Appeals.
- (3) The Taxpayer Bill of Rights groups rights from the Internal Revenue Code into ten fundamental taxpayer rights. IRS employees are responsible for knowing and following these rights. See IRC §7803(a)(3). IRC §7803(a)(3)(E) provides the right to appeal an IRS decision in an independent forum. Pursuant to this right, taxpayers are entitled to a fair and impartial administrative appeal of most IRS decisions. To protect this right, the originating function will not engage in communications that compromise or appear to compromise the independence of Appeals. For more information, see *Publication 1, Your Rights As A Taxpayer* or visit *Taxpayer Bill of Rights*.

4.2.7.1.4
(08-01-2025)
**Program Management
and Review**

- (1) **Program Reports:** To protect Appeals' independence, the originating function employee must obtain their manager's approval prior to sending any outgoing communication to Appeals. Additionally, Appeals independently reviews its own communication prior to sending any outgoing communication to the IRS Examination employees.
- (2) **Program Effectiveness:** Requiring manager approval adds another layer of review at the IRS Examination level.

4.2.7.1.5
(06-29-2017)
Program Controls

- (1) IRS employees should consult the following sources to ensure adherence to these guidelines:
 - Section 1001(a) of the Internal Revenue Service Restructuring and Reform Act of 1998, Public Law No. 105-206, 112 Stat. 685
 - Rev. Proc. 2012-18

4.2.7.1.6
(08-01-2025)
Terms and Acronyms

- (1) The table lists commonly used acronyms and their definitions.

Acronym	Definition
ATE	Appeals Technical Employee
EO	Exempt Organizations
IRM	Internal Revenue Manual
IRS	Internal Revenue Service
LB&I	Large Business and International
RRA	Restructuring and Reform Act
SB/SE	Small Business/Self Employed
TBOR	Taxpayer Bill of Rights
TE/GE	Tax Exempt/Government Entities
TS	Taxpayer Services

4.2.7.2
(08-01-2025)
Definitions

- (1) "Ex Parte Communication" is a communication between any Appeals employee and originating function employees without the taxpayer/representative having an opportunity to participate in the communications.
- (2) "Communications" includes oral or written (manually or electronically generated).
- (3) Appeals employee includes, but is not limited to, the following:
 - Appeals Officers
 - Appeals Team Case Leaders
 - Appeals Tax Computation Specialists
- (4) "Ex Parte Communication" does not include:

- Database inquiries (such as account inquiries, transcript requests and other similar inquiries conducted in an electronic environment). This exception doesn't apply to the administrative file, which may be in electronic format.
 - Communication solely between or among Appeals employees.
 - Communication with other governmental entities.
 - Communication in which the taxpayer or representative is given an opportunity to participate.
 - Communication about ministerial, administrative, or procedural matters.
 - Communication as part of the Fast Track Settlement process.
 - Non-case specific communication between Appeals and other IRS functions.
- (5) "Ex Parte Communication" generally doesn't include communication between Appeals and IRS functions other than originating functions. However, all IRS employees, consultants and experts, including Counsel and Criminal Investigation employees, must avoid communications with Appeals that may appear to compromise its independence, as described in Rev. Proc. 2012-18 Sections 2.06 and 2.07, and IRM 4.2.7.3, below.
- Note:** Please see IRM 8.1.10.4.4, Communications with Chief Counsel, to address Chief Counsel's role in Ex Parte communication.
- (6) "Originating Function" is an organization within the IRS that makes a determination subject to the Appeals process. This includes:
- a. Examination
 - b. Collection
 - c. Service Center (Campus functions)
 - d. A successor organization
- (7) The originating function sends Appeals the "Administrative File" which forms the basis for Appeals to assume jurisdiction of a case. The administrative file contains the following:
- Proposed determination
 - Taxpayer's protest
 - Rebuttal memorandum that was shared with the taxpayer/representative

Note: See IRM 8.1.10.4.2, Administrative File, for further information and examples.

4.2.7.3
(08-01-2025)
**Responsibility for
Compliance with the
Provisions of the
Restructuring and
Reform Act (RRA) 98
Section 1001(a)(4) and
Revenue Procedure
2012-18**

- (1) All IRS and Counsel employees share the responsibility to ensure that communications do not appear to compromise the independence of Appeals. See IRM 8.1.10.7, Documenting Ex Parte Communications.
- (2) All IRS employees will make every effort to promptly end any communications not permitted by the ex parte communication rules.
- (3) The prohibition against ex parte communications applies to communications between any Appeals employee and any originating function employee, including but not limited to:
 - Area Managers
 - Group Managers

- Review Managers
 - Reviewers
 - Revenue Agents
 - Revenue Officers
 - Tax Computation Specialists
 - Technical Specialists
 - Engineers
 - Appraisers
 - Cross Border Activities Specialists
 - Transfer Pricing Specialists
 - Financial Products Specialists
- (4) An originating function employee must request their group manager's approval before communicating with an Appeals officer or Appeals manager.
- (5) The following table describes the originating function group manager's responsibilities regarding any request to communicate with Appeals.

IF the originating function group manager decides the communication is:	THEN the originating function group manager will:
Not necessary	Deny the request
Necessary and is not a prohibited ex parte communication	Approve the request
Necessary and is a prohibited ex parte communication	Approve the request and provide instructions on the requirement to include the taxpayer in the communication

- (6) If an Appeals officer contacts an originating function employee and the information requested appears to be a prohibited ex parte communication, first discuss this concern with the Appeals officer and the originating function employee's group manager before providing any information.

Note: If it is questionable whether a proposed communication would be prohibited under RRA 98 or Rev. Proc. 2012-18, invite the taxpayer to participate in the communication. Also seek Counsel's guidance.

Note: There are restrictions on certain communications between Appeals and Counsel. See IRM 8.1.10.4.4, Communications with Counsel.

- (7) See IRM 8.1.10.6, Curing Ex Parte Communication Breaches, if a breach occurs.
- (8) Certain alternative dispute resolution (ADR) programs, such as fast track settlement, involve the use of Appeals employees to facilitate settlement while the case is still in Examination's jurisdiction. See Section 2.05(1) of Rev. Proc. 2012-18.
- a. The prohibition against ex parte communications between Appeals employees and other IRS employees does not apply because Appeals employees are not acting in their traditional Appeals' settlement role.

- b. Consequently, Appeals employees may have ex parte communications with an originating function in connection with any Fast Track or similar ADR proceedings.
- c. Employees can refer also to IRM 4.46.1 regarding a pre-appeals conference.

4.2.7.4
(08-01-2025)
**Sending the
Administrative File to
Appeals**

- (1) The originating function compiles the administrative file using established procedures, or as otherwise directed by the reviewer(s) assigned to the case. Generally, the administrative file the originating function sends to Appeals is not considered to be an ex parte communication.
- (2) To avoid influencing Appeals, originating functions can't send any documents, statements or comments not normally generated while developing a case to Appeals. This includes case recommendations of what to consider and how to resolve.
- (3) Originating functions must share documents that contain any statements or comments that may be construed as prohibited ex parte communications with the taxpayer/representative at the time the administrative file is sent to Appeals.
- (4) See IRM 8.1.10.4.2, Administrative File, for further information and examples.

4.2.7.4.1
(08-01-2025)
**Rebuttals of the
Taxpayer's Protest**

- (1) If the originating function prepares a rebuttal to a taxpayer's protest, it must be shared with the taxpayer/representative at the time the administrative file is sent to Appeals.
- (2) Use Letter 5072, Examiner's Rebuttal, as a cover for the rebuttal. TE/GE employees should use Letter 5918, Protest Received Rebuttal / Transfer to Appeals.

4.2.7.4.2
(08-01-2025)
**Examination of Years
After Transmission to
Appeals**

- (1) If an examiner is assigned a subsequent year examination of an open case in Appeals, the examiner should review the administrative file for past examination findings.
- (2) Except as noted under Rev. Proc. 2012-18 , section 2.07(3), Competent Authority, and section 2.07(4), Commissioner and Other IRS Officials with Overall Supervisory Responsibilities, Exam should not discuss the open year or subsequent year examination issues with Appeals to avoid compromising Appeals' independence.

4.2.7.5
(06-29-2017)
**Review of New
Information or Evidence
Submitted to Appeals**

- (1) Appeals gives the originating function the opportunity to review and comment on significant new information or evidence presented by the taxpayer/representative during the Appeals proceedings. "Significant new information" is information of a nonroutine nature that, in Appeals' judgement, may affect the originating function's findings or that may impact Appeals' independent evaluation of the strengths and weaknesses of the issues, including the litigating hazards for those issues.
- (2) The function or Appeals employee who keeps jurisdiction over the case must communicate and provide the results of the originating function's review to the taxpayer/representative.

- (3) See IRM 8.2.1.5, Returning a Case to Examination - ATE, as well as IRM 8.4.4, Appeals Docketed Cases, Examination Assistance Requests, for further information about cases returned to the originating function.

4.2.7.6
(10-25-2013)
**Refund Claims During
the Appeals Process**

- (1) Refund claims filed during the Appeals process generally are referred to the originating function with a request for expedited review.
- (2) When Appeals refers these refund claims to the originating function, communications should adhere to the exemption for ministerial, administrative, or procedural matters as outlined in the definition of ex parte communications.
- (3) Appeals must timely notify the taxpayer/representative when they refer the refund claim to the originating function.
- (4) The originating function or Appeals employee who keeps jurisdiction over the case must communicate and provide the originating function's review results to the taxpayer/representative.

4.2.7.7
(08-01-2025)
**Communicating with
Appeals on Closed
Cases**

- (1) An originating function's dissenting memorandum to Appeals stating its disagreement with Appeals' settlement of a case is not a prohibited ex parte communication if all Appeals' actions on the case are finished before the memorandum is given to Appeals. See IRM 8.6.4.2.10, Disagreements with Appeals Determinations, for more information.

Note: A dissenting memorandum must be approved by the Area Manager/Territory Manager/Field Operations Manager before sending to Appeals.

- (2) A post-settlement conference with Appeals and the originating function after Appeals closes the case is not an ex parte communication as long as discussion is limited to the issues in the closed case.

Note: "Closed" for ex parte communication purposes means Appeals rendered its decision in the case and issued the necessary closing documents formalizing that decision, and no additional changes may be made by Appeals.

- (3) See IRM 8.1.10.4.1.4, Post-Settlement Conferences, for further information.