



# MANUAL TRANSMITTAL

Department of the Treasury  
Internal Revenue Service

4.13.6

DECEMBER 16, 2015

## EFFECTIVE DATE

(12-16-2015)

## PURPOSE

- (1) This transmits a revised IRM Part 4.13.6 Audit Reconsideration, Appeal Rights.

## MATERIAL CHANGES

- (1) IRM 4.13.6.1 - Restructured the numbering and added note on ex parte communication with Appeals.
- (2) IPU 14U1699 issued 12-17-2014 IRM 4.13.6.1(4) - Updated phone number for Appeals Account Resolution Specialist in Fresno.
- (3) IPU 13U1762 issued 12-23-2013 Revalidating changes issued with IPU 100756 for IRM 4.13.6.1(4) to add reference for IRM 8.2.1.5 and 8.2.1.6 in note.
- (4) IPU 100756 issued 05-11-2010 IRM 4.13.6.1(4) add reference For IRM 8.2.1.5 and 8.2.1.6 in note.
- (5) The entire IRM has been rewritten.

## EFFECT ON OTHER DOCUMENTS

This material supersedes IRM 4.13.6 dated 12/31/2009.

## AUDIENCE

Small Business/Self Employed and Wage and Investment Campus Compliance, Appeals, Taxpayer Advocate Service

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4.13.6  
Appeals

## **Table of Contents**

4.13.6.1 Appeal Rights



4.13.6.1  
(12-16-2015)  
**Appeal Rights**

- (1) This chapter discusses appeal rights. An appeal will be given in the following circumstances, if requested:
  - a. When the taxpayer is accepted for reconsideration, and
  - b. The result of the reconsideration is that the taxpayer's request is disallowed in full or part.
- (2) An appeal will not be given in the following circumstances:
  - a. The taxpayer is accepted for reconsideration, but does not respond to the appointment letter, or does not keep a scheduled appointment. If the taxpayer is unable to attend the meeting due to unavoidable circumstances such as severe weather conditions or a medical emergency, the appointment should be rescheduled.
  - b. The taxpayer is not accepted for reconsideration for one of the reasons stated in IRM 4.13.1.8, *Non-Acceptance of Request*.
- (3) If the taxpayer does not wish to have an appeals conference, but still wishes to dispute the audit reconsideration determination.
  - a. The taxpayer must pay the full amount due and file a claim for refund with the Internal Revenue Service.
  - b. Under IRC 6511(a), the taxpayer must file his/her claim for refund within three years from the time the return was filed or two years from the time the tax was paid, whichever expires later, or if no return was filed by the taxpayer, within two years from the time the tax was paid.
- (4) If the taxpayer has a question regarding his/her open case in Appeals or the question can only be answered by Appeals, you can contact an Appeals Account Resolution Specialist (AARS) in Fresno at (559) 233-1267 to find out who is working the case in Appeals or who in Appeals may be best suited to address the taxpayer's question. You should provide the taxpayer with the name and telephone number of the appropriate Appeals employee.
- (5) The function of Appeals is to resolve/settle disputes between the taxpayer and Examination. Therefore, if a case is forwarded to Appeals prior to the completion of the examination of documents and records, the case will be returned to Examination. Refer to IRM 8.2.1.5, *Returning a Case to Examination - ATE* and IRM 8.2.1.6, *Preliminary Review of a Case - ATE*.
- (6) Refer to IRM 4.13.3.16, ***Request for Appeals***, for case building and routing instructions.

**Note:** For Non-Docketed Appeals: Communications between the referring function and Appeals that address the strengths and weaknesses of the issues and positions of the parties, accuracy of the facts, credibility or cooperation of the taxpayer, etcetera, are prohibited ex parte communications unless the taxpayer or taxpayer's representative is offered the chance to participate in the communications. However, communications between the referring function and Appeals relating to ministerial, administrative or procedural matters are permissible. Refer to sections 2.02(6) and 2.03(3) of Rev. Proc. 2012--18, *Ex Parte Communications Between Appeals and Other Internal Revenue Service Employees*, and IRM 8.1.10, *Ex Parte Communications*, for additional discussion regarding ex parte communication with Appeals.

