



# MANUAL TRANSMITTAL

Department of the Treasury  
Internal Revenue Service

4.51.2

AUGUST 3, 2021

## EFFECTIVE DATE

(08-03-2021)

## PURPOSE

- (1) This transmits revised IRM 4.51.2, LB&I Case Management, LB&I Administrative Guidance.

## MATERIAL CHANGES

- (1) This IRM has been substantially rewritten since the previous version.
- (2) Renamed IRM 4.51.2.1, Program Scope and Objectives, in accordance with the internal control requirements described in IRM 1.11.2, Internal Management Documents System, Internal Revenue Manual (IRM) Process, and renumbered subsequent subsections.
- (3) Added the following new subsections to IRM 4.51.2.1 and rearranged content to conform to the prescribed format:

IRM Section Number	Title
4.51.2.1.1	Background
4.51.2.1.2	Authority
4.51.2.1.3	Role of LB&I Policy
4.51.2.1.4	Program Controls
4.51.2.1.5	Related Resources

- (4) Former IRM 4.51.2.3, LMSB Emerging Issues was removed. Related material on emerging issues may be found in IRM 4.32.2 and a future revision of IRM 4.50.2.
- (5) Former IRM 4.51.2.4, LMSB Coordinated Issues, was updated to reflect that all LB&I Coordinated Issue Papers are de-coordinated, and renumbered as IRM 4.51.2.5.
- (6) Former IRM 4.51.2.6, Developing Administrative Guidance - LMSB Directives, was removed and replaced with new IRM 4.51.2.2, LB&I Industry Director Directives or LB&I Directives, which includes content from Interim Guidance Memo LB&I-01-0720-0015, and Interim Guidance Memo LB&I-01-0920-0017.
- (7) New IRM 4.51.2.3, Guidance Placement Standards was added to explain and illustrate the differences between instructions to staff and supplemental material.
- (8) Former IRM 4.51.2.5, Coordinating Listed Transactions, was removed. Information on listed transactions may be found in a future revision of IRM 4.50.2.
- (9) Former IRM 4.51.2.6.5, Annual Review, was updated and renumbered as IRM 4.51.2.3.4.
- (10) Added new subsection IRM 4.51.2.4, Conveying Instructions to Taxpayers.
- (11) Removed Exhibit 4.51.2-1, Letter of Understanding with NTEU on LB&I Administrative Guidance because it is obsolete.

(12) Editorial corrections have been made throughout.

### **EFFECT ON OTHER DOCUMENTS**

This IRM incorporates LB&I Directive LB&I-04-0114-002, De-coordination of All LB&I Coordinated Issue Papers dated January 21, 2014. Interim Guidance Memos LB&I-01-0720-0015, Publishing Guidance; Signature Authority; Discontinuing Industry Directive Format, and LB&I-01-0920-0017, LB&I Internal Management Document Administrative Procedures, are also included in this IRM. IRM 4.51.2 dated December 12, 2005 is superseded.

### **AUDIENCE**

LB&I employees

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4.51.2

LB&I Administrative Guidance

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4.51.2.1  
(08-03-2021)  
**Program Scope and Objectives**

- (1) **Purpose:** This IRM describes LB&I procedures for managing administrative guidance and instructions to examiners.
- (2) **Audience:** LB&I personnel.
- (3) **Policy Owner:** Assistant Deputy Commissioner Compliance Integration, LB&I
- (4) **Program Owner:** LB&I Policy under the Strategy, Policy and Governance office in the Assistant Deputy Commissioner Compliance Integration (ADCCI) organization.
- (5) **Primary Stakeholders:** Besides IRS personnel, stakeholders also include taxpayers and their representatives.
- (6) **Program Goals:** This IRM:
  - a. Distinguishes LB&I administrative guidance from published legal guidance
  - b. Defines instructions to staff and supplemental material
  - c. Provides guidelines for content placement

4.51.2.1.1  
(08-03-2021)  
**Background**

- (1) Administrative guidance is a general term that refers to instructions to staff that is often issued on specific issues by a director-level official or above. Administrative guidance may:
  - a. Address administrative procedures and compliance actions
  - b. Provide operational instructions for planning and conducting examinations in areas of unsettled law
  - c. Address time and resource allocations, including specialist involvement on cases
  - d. Mandate the use of specific audit techniques in developing issues
- (2) In contrast, the term “published guidance” refers to items such as revenue rulings, revenue procedures, notices, announcements that are published in the Internal Revenue Bulletin. They provide information and guidance to taxpayers, IRS personnel and others. The Treasury Department and Office of Chief Counsel provide published legal guidance that establishes the Service’s legal position. LB&I administrative guidance may cite or refer to established legal principles that have been published in the Internal Revenue Bulletin.

4.51.2.1.2  
(08-03-2021)  
**Authority**

- (1) The Commissioner has the authority to administer and enforce the Internal Revenue Code (Treasury Order No. 150-10). The authority is redelegated to the Division Commissioners (Delegation Order 1-23). Division Commissioners may delegate to the Division Directors, certain authorities on matters, including cases and resources, previously delegated to Service Center or Practice Area Directors. See Division Delegation Order 1-23-12. As a result, the LB&I commissioner may, through practice area directors, issue guidance to field employees to promote better understanding and consistency.

4.51.2.1.3  
(08-03-2021)  
**Role of LB&I Policy**

- (1) LB&I Policy is under the Assistant Deputy Commissioner Compliance Integration (ADCCI), Director – Strategy, Policy and Governance. With respect to administrative guidance, this function is charged with:
  - a. Developing, changing and documenting LB&I policies and monitoring adherence to those policies.

- b. Ensuring administrative guidance is coordinated and vetted with affected parties.
- c. Guiding administrative guidance through the approval process to either the Assistant Deputy Commissioner Compliance Integration or other defined approver.
- d. Ensuring content is placed appropriately and that supplemental guidance and informational resources do not contain instructions to staff that should be placed in the IRM.

4.51.2.1.4  
(08-03-2021)

#### Program Controls

- (1) LB&I will use Interim Guidance (IG) procedures to issue instructions to staff that cannot wait for an IRM update. IG memos are used Servicewide to issue guidance faster than an IRM section update. They have established clearance procedures and a system for tracking, controlling, and revoking them. IG memos are associated with their related IRM sections(s) on IRM Online and in the Freedom of Information Act (FOIA) library and are incorporated into the IRM within two years (unless reissued). Instructions for authoring, clearing, distributing and monitoring IG memos are found in IRM 1.11.10, Interim Guidance Process. LB&I specific processes are established and administered by LB&I Policy.
- (2) All interim guidance memos will be assigned control numbers and be added to the Internal Management Document (IMD) Tracking System. This system links these memos to their related IRM section in IRM Online. The IMD Tracking System is used to monitor the status and expiration dates of each memo. Authors should contact an LB&I IMD Coordinator for a control number before final approval of the document. The components of the control number are:

Component	Example
Division/Function	LB&I
The IR Part Number (Business Process Number)	Usually 04 for Examining Process (Business Process Numbers are found in IRM 1.11.1.5)
Month and Year	April 2021 would be 0421
Sequential Tracking Number	Starting with 001. This sequence starts over each calendar year

- (3) IG memos are in effect for two years from the issuance date or through the stated expiration date on the guidance, if earlier. To remain in force, procedures must be incorporated into the IRM by the expiration date.

4.51.2.1.5  
(08-03-2021)

#### Related Resources

- (1) LB&I Policy Office Virtual Library landing page: <https://portal.ds.irsnet.gov/sites/vl011/lists/comppolicysupport/landingview.aspx>

4.51.2.2  
(08-03-2021)

#### LB&I Industry Director Directives or LB&I Directives

- (1) The former LB&I industries used to provide issue-related guidance in the form of an "industry director directive." Over time, these directives transformed into "LB&I Directives" that were approved by the LB&I commissioner. Directive procedures duplicated and sometimes overlapped with established interim guidance procedures. To avoid duplication, and to fill gaps in existing directive procedures, we will no longer use the industry directive format. LB&I will use

interim guidance procedures, as described in IRM 4.51.2.1.4, Program Controls, for instructions to staff. Instructions to staff that belong in the IRM will be issued as interim guidance.

4.51.2.3  
(08-03-2021)  
**Guidance Placement  
Standards**

- (1) The following subsections describe fundamental concepts relating to the various ways guidance is provided to employees. This content will help to define where instructional or informational material will be placed.

4.51.2.3.1  
(08-03-2021)  
**Instructions to Staff**

- (1) The IRM is the primary, official source of instructions to staff and includes content that falls into one of the following categories:
  - a. **Delegations of Authority** - In general, the power to give orders or make decisions. Delegation orders are issued by the Commissioner of Internal Revenue (or on the Commissioner's behalf), to subordinates, with or without restriction or redelegation.
  - b. **Guidelines** - Directions employees use to determine a course of action or explanations that help employees make judgments based on facts.
  - c. **Interim Guidance (IG)** - A memorandum or IRM procedural update used to convey immediate, emergency or temporary changes to operations or procedures.
  - d. **Policy Statement** – A statement concerning an important ideal or value that guides IRS in administering the internal revenue laws and forms the basis for IRM procedures.
  - e. **Procedures** - A process, series of instructions to follow, or a sequence of steps, that establish a standard based on rule or policy.
- (2) IRM/IMD content is defined in IRM 1.11.2.2.1 as meeting one of these criteria:
  - a. It details actions that one or more employees are required to perform as part of their duties.

**Example:** Performing a risk analysis as described in IRM 4.46.3.3 as part of an examination.

**Example:** Technical instructions with mandatory steps on how to perform an examination of an issue such as the application of the economic substance doctrine as described in IRM 4.46.4.
  - b. Employees are evaluated on how they follow the instructions it provides.

**Example:** Soliciting and extension of the statute of limitations as described in IRM 25.6.22.

**Example:** Completing a Form 4549 / Form 4549-A, Report of Income Tax Examination Changes, according to IRM Exhibit 4.10.8-1.

**Example:** Following instructions for closing various claim for refund cases as described in IRM 4.10.11.2.15.
  - c. It provides rules for completing required worksheets or forms which are not published elsewhere.

**Example:** Accurately completing entries on Form 5344, Examination Closing Record, as described in IRM 4.4.12.5 or related interim guidance memo.

**Example:** Instructions for filling out the “Other Information” section of Form 4549 when inviting the taxpayer to file a claim as described in IRM 4.10.8.10.1.

**Example:** Instructions for completing a technical issue checksheet, letter to be sent, or other actions that must be completed in a particular way, such as the IDR enforcement process described in IRM Exhibit 4.46.4-2.

- (3) The advantages to placing instructions to staff in the IRM (as opposed to another source) are:
  - a. Content is subject to a formal review and approval process.
  - b. Archived copies of previous versions are easy to find in the core repository of published products.
  - c. Changes between revisions are clearly documented in the Manual Transmittal. (Background material is also available through the IRM Historical Library.)
  - d. Instructions are available to the public for transparency purposes unless specifically redacted.
  - e. IRMs are certified as current or not current on a yearly basis.
  - f. Employee performance can be evaluated based on adherence to the IRM.

4.51.2.3.2  
(08-03-2021)

#### Supplemental Guidance and Informational Resources

- (1) Supplemental guidance is defined in IRM 1.11.2.2.1 as material that supplements or supports a program, process, or activity. It can be issued as a job aid, desk guide or performance support tool. All supplemental guidance must reference the official guidance or procedures, such as IRM, IRC, regulations or revenue ruling and be approved by the responsible IRM author/analyst or program owner. Informational resources, such as practice units or knowledge bases in the Virtual Library, may also contain supplemental guidance. Informational or supplemental material may mistakenly contain instructions to staff that really belong in the IRM. For purposes of this section “supplemental” means all non-IRM content.
- (2) For LB&I, the following types of supplemental guidance and informational resources are known to be used (may not be all inclusive):
  - a. **A Performance Support Tool** is a web-based tool which provides information that supplements information in the IRM. Examples include the E-FOIA Decision Tool, and the IRM Decision Tool. All performance support tools must reference the official guidance or procedures, such as IRM, IRC, regulations or revenue rulings and be approved by the responsible IRM author/analyst or program owner.
  - b. **Job aids** are documents containing information on a specific issue which supplements or supports a program, process, or activity. Job aids summarize official procedures and guidance, such as the IRM, IRC, regulations or revenue ruling in order for employees to quickly obtain information on a specific subject or topic or for a specific user. An example is Form 10949, Statute Extension Check Sheet.
  - c. **Practice Units** are developed through internal collaboration and serve as both job aids and training materials on tax issues. For example, Practice Units provide IRS staff with explanations of general tax concepts as well as information about a specific type of transaction. Practice Units will



continue to evolve as the compliance environment changes and new insights and experiences are contributed.

**Note:** Practice Units are not official pronouncements of law or directives and cannot be used, cited or relied upon as such. Practice Units provide a general discussion of a concept, process or transaction and are a means for collaborating and sharing knowledge among IRS employees. Practice Units may not contain a comprehensive discussion of all pertinent issues, law or the IRS's interpretation of current law. Practice Units do not limit an IRS examiner's ability to use other approaches when examining issues. Practice Units and any non-precedential material (e.g., a private letter ruling, determination letter, or Chief Counsel advice) that may be referenced in a Practice Unit may not be used or cited as precedent. References to third party service providers and documents, like news or journal articles, are for informational purposes only and do not constitute an endorsement of any vendor, document, or the services or views offered by such third party.

- d. **Knowledge bases in the Virtual Library (and IRS Source)** contain resources for IRS employees and contractors to locate the knowledge and information needed to perform their jobs. This content is organized by topic and presented in a wiki format so that employees can find answers to their questions.
- e. **Audit Technique Guides (ATGs)** help IRS examiners during audits by providing insight into issues and accounting methods unique to specific industries or issues. ATGs explain industry-specific examination techniques and include both common and unique industry issues, business practices and terminology. Guidance is also provided on the examination of income, interview techniques and evaluation of evidence. ATGs are not an official pronouncement of the law or the position of the Service and cannot be used, cited, or relied upon as such.
- f. **Software or application specific instructions** that describe how to use and operate computer software or an application are not IRM material. See IRM Exhibit 1.11.2-1, Definitions of IMD Terms for Determining What Belongs in the IRM. However, instructions that go beyond basic program usage such as the mandatory workpaper naming convention or mandatory IMS inputs do belong in the IRM.
- g. **Training materials** are used to communicate specific aspects of guidance and may be used for new hire training, to increase knowledge on a specific issue, or other purposes.
- h. **Communications:** Email or other communication formats where material supporting published guidance are published. Care must be taken not to issue authoritative instructions using this means instead of interim guidance.

4.51.2.3.3  
(08-03-2021)  
**Content Placement**

- (1) Currently, some LB&I IRMs contain material that is not instructions to staff but is more informational-type content. Such content will be removed from the IRM and placed into an informational resource such as a practice unit, virtual library book or an ATG.
- (2) LB&I Policy does not own, author, publish, or approve ATGs, practice units, other informational resources or supplemental guidance. These functions are carried out by various practice areas across LB&I. The role of LB&I Policy is to ensure that these types of resources do not contain instructions to staff that

should be placed in the IRM. Policy analysts will review IRM content to ensure it is housed in the appropriate place and move content between formats as necessary.

- (3) LB&I practice areas publishing this type of content should include a step in their process to consider whether the content belongs in the IRM before publishing. IRM 1.11.2.2 and the *IRM Decision Tool* is available to help determine what belongs in the IRM. LB&I Policy is available to help determine where content belongs during the development process before approval.

4.51.2.3.4  
(08-03-2021)  
**Annual Review**

- (1) See IRM 1.11.2.2.1, Supplemental Sources of Guidance, paragraph (4) for annual review requirements for supplemental guidance.

4.51.2.4  
(08-03-2021)  
**Conveying Instructions to Taxpayers**

- (1) In some cases, it may be necessary to communicate instructions to taxpayers along with guidance to examiners. In these situations, examiners should consider working with Counsel on a revenue procedure or notice as defined in Chief Counsel Directives Manual (CCDM) 32.2, Chief Counsel Publication Handbook. These types of statements are the appropriate vehicles for providing taxpayers with formal guidance. The CCDM also contains procedures for creating and publishing these documents.
- (2) News releases are nontechnical publications targeted at the general public through the news media. News releases can be used to provide general information to taxpayers, but they can't be relied upon as instructions. For more information, see IRM 11.1.3, Communications, Contact with the Public and the Media.
- (3) If instructions to taxpayers need IRM content change or development, contact LB&I Policy as early as possible.

4.51.2.5  
(08-03-2021)  
**LB&I Coordinated Issues**

- (1) All LB&I Coordinated Issue Papers were de-coordinated on January 21, 2014. The subject matter experts for these respective issues will provide guidance and support to examiners on any of the de-coordinated issues.
- (2) To the extent that any Coordinated Issue Paper included guidance or tools relevant to addressing an issue or transaction, such guidance or tools will be made available through appropriate books in the Virtual Library, which may be consulted by examiners with questions about how to address a technical issue.
- (3) The de-coordination of any coordinated issue has no effect on whether the issue will continue to be pursued by LB&I in a taxpayer examination or on the Service's views regarding any transaction, including listed transactions.
- (4) Certain issues or procedures currently addressed in a campaign may be addressed in future LB&I guidance.