



# MANUAL TRANSMITTAL

Department of the Treasury  
Internal Revenue Service

5.17.1

SEPTEMBER 13, 2023

## EFFECTIVE DATE

(09-13-2023)

## PURPOSE

- (1) This transmits revised IRM 5.17.1, Legal Reference Guide for Revenue Officers, General Information.

## BACKGROUND

- (1) This revision adds the new Internal Management Document (IMD) control section.

## MATERIAL CHANGES

- (1) Editorial updates to correct citations, correct links, and updates related to the Style Guide (section symbols, breaks, citation title italics).

## EFFECT ON OTHER DOCUMENTS

IRM 5.17.1, General Information, dated June 3, 2019, is superseded.

## AUDIENCE

SB/SE Revenue Officers

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Acting Director, Collection Policy  
Small Business/Self-Employed



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5.17.1

General Information

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5.17.1.1  
(06-03-2019)  
**Program Scope and Objectives**

- (1) **Purpose:** This IRM discusses the roles and responsibilities of the parties active in legal and judicial actions both by and against the United States. While the Legal Reference Guide for Revenue Officers has been established as a Handbook within the Internal Revenue Manual, it is not the source of procedural instructions. Revenue officers and other Internal Revenue Service personnel must still look to the basic Internal Revenue Manual (IRM) provisions outside the Legal Reference Guide for such instructions. Constant study and use of the information contained in the Legal Reference Guide is needed for it to be most beneficial; however, such study is not intended to make lawyers of the users and it is not a substitute for any required referral of cases through proper channels to Counsel.
- (2) **Audience:** This IRM is used by Collection employees as a contact reference point for litigation issues and the responsibility of each stakeholder.
- (3) **Policy Owner:** Director, Collection Policy.
- (4) **Program Owner:** The program owner is Collection, an organization within the Small Business Self-Employed (SBSE) division.
- (5) **Primary Stakeholders:** The primary stakeholders are Chief Counsel and Department of Justice attorneys.
- (6) **Program Goals:** The Legal Reference Guide for Revenue Officers is intended to make available to revenue officers and other personnel engaged in collection efforts the fundamentals of legal knowledge needed in their daily activities.

5.17.1.1.1  
(06-03-2019)  
**Background**

- (1) The Legal Reference Guide for Revenue Officers is intended to make available to revenue officers and other personnel engaged in collection efforts the fundamentals of legal knowledge needed in their daily activities. The results of recent legislation and recent court decisions have been incorporated into the revised text.

5.17.1.1.2  
(09-13-2023)  
**Authority**

- (1) There is established in the Department of the Treasury the Office of General Counsel and the office of an Assistant General Counsel, who serves as Chief Counsel of the Internal Revenue Service. 31 USC 301(f); IRC 7803(b)(1). The Chief Counsel is appointed by the President with the advice and consent of the Senate, but the Commissioner recommends to the President a candidate for appointment as Chief Counsel when a vacancy occurs and, if necessary, recommends the removal of the Chief Counsel. IRC 7803(a)(2)(B) and (b)(1).
- (2) The Chief Counsel is the chief law officer for the Internal Revenue Service. The Chief Counsel reports directly to the Commissioner except as follows.
  - a. The Chief Counsel reports solely to the General Counsel with respect to legal advice or interpretation of the tax law relating solely to tax policy.
  - b. The Chief Counsel reports to both the Commissioner and the General Counsel with respect to legal advice or interpretation of the tax law not relating solely to tax policy, and with respect to tax litigation. If there is any disagreement between the Commissioner and the General Counsel on any such matter, it is submitted to the Secretary or Deputy Secretary for resolution. IRC 7803(b)(3).
- (3) All personnel in the Office of Chief Counsel report to the Chief Counsel. IRC 7803(b)(4). The role of the Office of Chief Counsel is to ensure the correct and

uniform application of the tax laws. It is, therefore, the responsibility of each component of the Office, individually and collectively, to ensure that all published guidance, documents filed in litigation, and legal advice issued to the Service or to taxpayers accurately reflect the position of the Office. IRM 31.1.1.1(1), Chief Counsel Directives Manual (CCDM), General Principles for Handling Legal Work.

5.17.1.1.3  
(06-03-2019)  
**Roles and Responsibilities**

- (1) This IRM, in its subsections, identifies and defines the roles and responsibilities of the parties active in legal and judicial actions both by and against the United States.

5.17.1.1.4  
(06-03-2019)  
**Program Management and Review**

- (1) This IRM introduces the parties active in legal and judicial actions both by and against the United States and is not a procedural IRM. Program management and review is associated with the programs referenced in the individual Legal Reference Guide Handbooks of this IRM chapter.

5.17.1.1.5  
(06-03-2019)  
**Program Controls**

- (1) This IRM introduces the parties active in legal and judicial actions both by and against the United States and is not a procedural IRM. Program Controls are associated with the programs referenced in the individual Legal Reference Guide Handbooks of this IRM chapter.

5.17.1.1.6  
(06-03-2019)  
**Terms and Acronyms**

- (1) The table lists the common acronyms and their definitions.

Acronym	Definition
AUSA	Assistant United States Attorney
CCDM	Chief Counsel Directives Manual
CNTA	Division Counsel/Associate Chief Counsel (National Taxpayer Advocate Program)
DOJ	Department of Justice
EEE	Associate Chief Counsel Employee Benefits, Exempt Organizations, and Employment Tax
FI&P	Financial Institutions and Products
FM	Associate Chief Counsel Finance and Management (FM)
IRC	Internal Revenue Code
IRM	Internal Revenue Manual
IT&A	Income Tax and Accounting
LB&I	Large Business and International
SB/SE (aka SBSE)	Small Business and Self-Employed
P&SI	Passthroughs and Special Industries

Acronym	Definition
P&A	Procedure and Administration
TAS	Taxpayer Advocate Service
TEGE	Tax Exempt and Government Entities
TEGEDC	Tax Exempt and Government Entities Division Counsel
USC	United States Code
WI	Wage and Investment

5.17.1.1.7  
(09-13-2023)

- (1) For detailed information on specific types of actions see the subsequent IRM chapters in this handbook.

#### Related Resources

IRM Chapter	Title
IRM 5.17.2	Federal Tax Liens
IRM 5.17.3	Levy and Sale
IRM 5.17.4	Suits by the United States
IRM 5.17.5	Suits Against the United States
IRM 5.17.6	Summonses
IRM 5.17.7	Liability of Third Parties for Unpaid Employment Taxes
IRM 5.17.8	General Provisions of Bankruptcy
IRM 5.17.9	Chapter 7 Bankruptcy (Liquidation)
IRM 5.17.10	Chapter 11 Bankruptcy (Reorganization)
IRM 5.17.11	Chapter 13 Bankruptcy (Individuals with Regular Income) and Chapter 12 Bankruptcy (Family Farmers or Fishermen with Regular Income)
IRM 5.17.12	Investigations and Reports
IRM 5.17.13	Insolvencies and Decedents' Estates
IRM 5.17.14	Fraudulent Transfers and Transferee and Other Third Party Liability
IRM 5.17.15	Termination and Jeopardy Assessments and Jeopardy Collection

- (2) For procedures related to the types of actions discussed in this legal reference guide handbook see:

- *IRM Part 5, Collecting Process, and*
- *IRM Part 25, Special Topics.*

- (3) The IRS adopted an additional <https://www.irs.gov/taxpayer-bill-of-rights> in June 2014. There are three previous TBOR, which have been incorporated into IRM instructions over the years. Employees are responsible for being familiar

with and acting in accord with all taxpayer rights provisions and instructions including the 2014 TBOR. See IRC 7803(a)(3), Commissioner of Internal Revenue, Execution of Duties in Accord With Taxpayer Rights. For additional information about Taxpayer Bill of Rights see:

- TBOR 1: IRM 13.1.1.2(2), Evolution of the Office of the Taxpayer Advocate,
- TBOR 2: IRM 13.1.1.2(3), Evolution of the Office of the Taxpayer Advocate, and
- TBOR 3: IRM 13.1.1.2.1, IRS Adoption of Taxpayer Bill of Rights and IRC 7803(a)(3), also known as TBOR 3 <https://www.irs.gov/taxpayer-bill-of-rights>.

5.17.1.2  
(04-06-2010)

#### **Local Law Section**

- (1) In order to maintain a comprehensive reference guide, Area Counsel will ordinarily prepare supplementary material discussing the impact of local law on subject matter of the Handbook. See the Chief Counsel Website, SB/SE State Law Guides, at <http://ccintranet.prod.irsounsel.treas.gov/OrgStrat/Offices/sbse/Pages/LawGuides.aspx>.
- (2) The choice of subject matter to be included in the local law material is discretionary between the Area Counsel office and the functions of the Service requesting advice on such matters.

5.17.1.3  
(10-16-2007)

#### **Functions and Organization of Office of Chief Counsel**

- (1) The functions and organization of the Office of Chief Counsel are set forth below. The roles and responsibilities of the Department of Justice, Tax Division, and United States Attorney are provided in IRM 5.17.1.6 and 5.17.1.7.

5.17.1.3.1  
(10-16-2007)

#### **General Statement**

- (1) About one-third of the office of Chief Counsel attorneys work in the vicinity of Washington, D.C., for the most part in connection with the work of the National Office.
- (2) About two-thirds of the attorneys are assigned to Area Counsel offices or to Operating Division Counsel.

5.17.1.3.2  
(06-03-2019)

#### **General Organization**

- (1) The Chief Counsel has an immediate staff consisting of a
  - Principal Deputy Chief Counsel and Deputy Chief Counsel Technical,
  - Deputy Chief Counsel Operations,
  - Executive Counsel,
  - Counselor to the Commissioner, and
  - Equal Employment Opportunity Program Manager.

5.17.1.3.3  
(09-13-2023)

#### **National Office Functions**

- (1) The National Office functions involve planning and directing policies and programs with respect to legislation, regulations, interpretative rulings and opinions, litigation, and advisory services, pertaining to the laws administered by the Internal Revenue Service. The work is handled according to the *Office of the Chief Counsel Organizational Chart* as follows:

***Operations: Associate Chief Counsel for -*****Operations Contains the following**

Associate Chief Counsel Finance and Management (FM)

Division Counsel/Associate Chief Counsel National Taxpayer Advocate Program (CNTA)

General Legal Services

Procedures and Administration

Division Counsel Large Business and International

Division Counsel Small Business and Self-Employed

Division Counsel Wage and Investment

Division Counsel Criminal Tax

Division Counsel Tax Exempt and Government Entities DC

***Technical: Associate Chief Counsel for -*****Technical Contains the following**

Corporate

Financial Institutions and Products (FI&P)

Income Tax and Accounting (IT&A)

International

Passthroughs and Special Industries (P&SI)

Associate Chief Counsel Employee Benefits, Exempt Organizations, and Employment Tax (EEE)

***Equal Employment Opportunity Program Manager:*****Equal Employment Opportunity Contains the following**

Associate Chief Counsel Finance and Management (FM)

- (2) The Office of the Associate Chief Counsel (Procedure & Administration) consists of eight branches which are responsible for areas such as collection, bankruptcy, and disclosure.

5.17.1.4  
(06-03-2019)  
**Operating Divisions and their Field Offices**

(1) The function of each operating Division Counsel office is to serve the operating division to which that office is assigned. The Division Counsel reports directly to the Deputy Chief Counsel Operations. Additional Division Counsel offices will be managed by Area Counsel or Associate Area Counsel.

5.17.1.4.1  
(06-03-2019)  
**Operating Division Counsel**

(1) Operating Division Counsel, and their respective field offices, have been created for the operating divisions of: Large Business and International, Tax Exempt & Government Entities, Criminal Tax, Small Business & Self Employed (SB/SE), Taxpayer Advocate Service, and Wage & Investment (WI).

(2) In the field, Operating Division Counsel for SB/SE does not work for but, may provide legal advice to W&I and TAS. Sometimes coordinating this advice with P&A subject matter experts, if the issue requires coordination. This is because Counsel W&I and CNTA are small offices that do not have the resources to provide all of the legal advice requested by their clients.

(3) SB/SE Division Counsel works closely with the Office of the Associate Chief Counsel (Procedure and Administration) to render legal advice for collection matters.

5.17.1.4.2  
(09-13-2023)  
**SB/SE Operating Division Counsel, and Area and Associate Area Counsel**

(1) The primary function of the SB/SE Operating Division Counsel, and Area and Associate Area Counsel, is to represent the Internal Revenue Service in cases before the United States Tax Court. They also provide the large variety of legal services which the Office of the Chief Counsel renders in connection with collection of federal taxes (except those involving Alcohol, Tobacco and Firearms matters), summonses, damage suits for failure to release levy or unauthorized collection actions, and defense to or suits to obtain injunctions including promoter injunctions. A prime concern is with the legal problems involved in the collection of delinquent accounts, i.e., those with which revenue officers are directly concerned.

(2) Certain matters involving initial action by the field offices are subject to review in the National Office to insure consistency of treatment and uniformity of approach. However, most SB/SE functions have been delegated to Area and Associate Area Counsel for final disposition in order to provide prompt and readily available legal service to the field offices of the Internal Revenue Service handling SB/SE and WI issues and to accomplish the broad responsibilities implicit in the handling of the wide range of legal problems in the collection area. Each such counsel, through his or her staff, handles legal work with respect to:

Item	Description
1	Collection and protection of the tax claims and liens of the United States in proceedings under 11 USC (the Bankruptcy Code), federal and state receiverships, corporate dissolutions, decedents' estates, and assignments for the benefit of creditors.
2	Protection of priority rights of federal tax liens in foreclosure actions by mortgagees or other lien holders in partition suits, condemnation suits, interpleader suits and in suits to quiet title.
3	Applications filed for the discharge of property from the effect of federal tax liens or for the release of such liens and applications for subordination of federal tax liens and for certificates of nonattachment

Item	Description
4	Offers in compromise and installment agreements.
5	Enforcement of summonses, third-party contact issues, and certain disclosure problems.
6	Taking of affirmative action, whether by way of a separate suit or intervention in a pending proceeding, to collect taxes (with the exception of Alcohol, Tobacco, and Firearms taxes) with a view to reducing tax claims to judgment, enforcing federal tax liens (including the appointment of a receiver), opening safe deposit boxes, enforcing a levy, asserting transferee liability, seeking to collect on bonds, and asserting liability against third parties paying or providing wages.
7	Recommendations to the United States Attorney with respect to petitions for writ of entry.
8	Proposals of settlement of pending litigation to be effected through the Department of Justice.
9	Defense of injunction suits to restrain the assessment or collection of federal taxes (except with respect to Alcohol, Tobacco, and Firearms matters).
10	Recommendations concerning administrative claims for damages regarding unlawful collection actions, release of liens, and violation of the automatic stay under IRC 7432 and 7433.
11	Release of the Government's right under 28 USC 2410 or IRC 7425(d) to redeem property which has been the subject matter of a foreclosure proceeding in which the United States has been properly named a party, or given adequate notice of nonjudicial sale.
12	Actions for the perpetuation of testimony.
13	Handling of legal matters with respect to leases, bonds, contracts and other similar matters.
14	Jeopardy levies, and the administrative and judicial review procedures under IRC 7429.
15	Determination of trust fund recovery penalty.

- (3) Field attorneys assigned to SB/SE Area or Associate Area Counsel units will provide legal advice on various matters to Service personnel in the SB/SE and WI Operating Divisions, the offices of the respective commissioner, campus director, and field offices. In connection with this type of activity, which is vital to the success of any organization operating on a decentralized basis, visitation programs have been established so that legal personnel make regular periodic visits to the field offices located throughout the counsel office's service area.
- (4) The Area or Associate Area Counsel legal staff also maintains day-to-day contacts with the United States Attorneys' offices, and the appropriate Trial Section of the Tax Division, Department of Justice, charged with the ultimate responsibility for the trial of certain proceedings in federal and state courts. Upon request, the Area or Associate Area Counsel and his or her staff furnish appropriate legal services to the United States Attorney and the Department of Justice, which may include
- preparation of suit or defense letters,
  - authorizing the institution of legal proceedings or the defense of a civil action against the United States, and
  - setting forth the pertinent legal issues and the Internal Revenue Service's position thereon.

- (5) Not the least of the services rendered by the Area or Associate Area Counsel and his or her staff is their participation, sometimes in conjunction with the Chief Counsel's National Office staff, in the various training and continuing education programs for revenue officers and other personnel concerned with collection matters, which includes preparation and maintenance of a Local Law Section for the Legal Reference Guide.

5.17.1.5  
(09-13-2023)

**Associate Chief Counsel  
(Procedure and  
Administration)**

- (1) The Associate Chief Counsel (Procedure and Administration) (P&A) serves as principal legal advisor to the Chief Counsel, the Operating Division Counsel, and the operating divisions, on matters such as those concerning assessment, collection, interest, penalties, bankruptcy, summonses, and disclosure.
- (2) P&A will provide legal interpretations of tax law involving matters, such as collection, bankruptcy, and summonses, that will directly implicate the work of the revenue officer.
- (3) P&A has a dual responsibility - technical and litigation assistance. In its role of providing technical guidance in order to achieve uniformity in positions and treatment of taxpayers, P&A prepares various guide materials, such as the Chief Counsel Directives Manual Part 34, the texts for various training programs, Chief Counsel Notices, Chief Counsel Advice and Service Center Advice. Additionally, P&A provides formal legal advice to the operating division and other field counsel offices, and P&A's subject matter specialists are available to provide technical advice on an informal basis. P&A also pre-reviews and post-reviews certain documents drafted and decisions made by field counsel. See IRM 35.11.1-1, CCDM, Litigation Exhibits, Issues Requiring Associate Office Review, for a complete listing of matters pre-reviewed by Associate Chief Counsel (P&A). P&A is also responsible for reviewing Internal Revenue Manual revisions and updates for matters involving collection issues.
- (4) P&A also provides litigation assistance to SB/SE Area Counsel and Associate Area Counsel for certain actions brought by or against the United States. In certain litigation matters, a suit or defense letter must be referred to the Associate Chief Counsel (P&A) for review and approval before referral to the Department of Justice. Those cases or issues include:
  - requests for appointment of a receiver,
  - suits for failure to honor a levy where the 50 percent penalty is sought,
  - suits for judicial approval of service of John Doe summonses,
  - cases raising third-party contact issues under IRC 7602(c),
  - injunction suits to stop pyramiding in no equity seizure situations,
  - suits for damages under IRC 7433(e) involving requests for damages for violations of the automatic stay or permanent injunction,
  - suits to assert tort liability for converting property subject to the federal tax lien, or
  - suits involving a bona fide dispute with another Government agency.
- (5) P&A attorneys often argue motions on behalf of Area Counsel attorneys before the United States Tax Court in Washington, D.C.
- (6) P&A is responsible for preparing all recommendations regarding appellate and certiorari matters for the Office of Chief Counsel in all cases under its jurisdiction.
- (7) Even though P&A issues, such as those more particularly described above, will most often concern the SB/SE function, those issues may also concern other

operating divisions. In cases where this occurs, the Area Counsel or Associate Area Counsel or Operating Division Counsel of these other functions may request technical advice from the Associate Chief Counsel (P&A).

- (8) P&A attorneys handle some Tax Court cases just as an SB/SE field office would, from filing answers to handling trials.

5.17.1.6  
(06-03-2019)  
**Department of Justice**

- (1) The Department of Justice (DOJ) generally through its staff of attorneys in the Tax Division, and the United States Attorneys in the field, are the Government's representatives in most courts of the federal and state judicial systems and, as such, represent the Internal Revenue Service. Chief Counsel attorneys represent the Internal Revenue Service before the United States Tax Court.
- (2) The Chief Counsel's office furnishes such assistance as may be necessary, including recommendations on offers in settlement, suit and defense letters in support of the Service's position on pertinent issues, and recommendations with respect to appeal or certiorari of a court's decision, often conferring with DOJ attorneys on various matters.

5.17.1.7  
(10-16-2007)  
**United States Attorney**

- (1) In the field there is usually close contact between the United States Attorneys and Area Counsel attorneys. Area Counsel attorneys furnish such assistance to the United States Attorneys as may be necessary, including preparing pleadings, interviewing witnesses, taking depositions, and participating in conferences with taxpayers' representatives.

5.17.1.8  
(10-16-2007)  
**Revenue Officer's Role**

- (1) From what has preceded, it is obvious that the collection of the revenue is the result of joint efforts involving many individuals and offices both inside and outside the Internal Revenue Service. In order for a revenue officer to have a proper perspective of his or her role and better understand his or her duties as well as the duties and responsibilities of others, it is important that a revenue officer be familiar with the various interrelationships of the offices involved in tax collection work.
- (2) While revenue officers are not expected to have the comprehensive knowledge of the law required of attorneys, it is hoped that they will gain a sufficient understanding from the material in the following sections to recognize the legal problems that might call for reference to Counsel for consideration.
- (3) Whenever litigation involving collection matters is pending or the institution of affirmative legal action to effect collection is being considered, revenue officers will, in the main, be investigators of facts and will be required to prepare reports concerning any facts ascertained. The lawyers charged with the responsibility of handling SB/SE cases must rely upon the administrative personnel of the Internal Revenue Service for investigation of the facts in any case. The importance of the revenue officer as an investigator and fact finder cannot be too strongly emphasized. See IRM 5.17.12 on Investigations and Reports.

