



MANUAL TRANSMITTAL

Department of the Treasury
Internal Revenue Service

13.9.1

FEBRUARY 16, 2023

EFFECTIVE DATE

(02-16-2023)

PURPOSE

- (1) This transmits revised IRM 13.9.1, The National Taxpayer Advocate Office, Procedures for Taxpayer Advocate Directives.

MATERIAL CHANGES

- (1) IRM 13.9.1.1.1, removed the section symbol and italic font for titles per the IRM Style Guide and replaced the pronoun her with NTA to make gender neutral.
- (2) IRM 13.9.1.1.2, removed the section symbol and italic font for titles per the IRM Style Guide.
- (3) IRM 13.9.1.1.3 removed reference to Privacy, Government Liaison and Disclosure (PGLD). PGLD does not perform this type of redaction for other IRS offices and updated to: **TAS may publish TADs, TAD appeals, and the IRS's formal response to TADs on the TAS website, after making any necessary redactions. TAS may seek assistance from the Division Counsel/Associate Chief Counsel (National Taxpayer Advocate Program) to request that the office of the Associate Chief Counsel, Procedure and Administration provide review of any redaction questions.** Removed the section symbol per the IRM Style Guide.
- (4) IRM 13.9.1.1.4, replaced National Taxpayer Advocate with NTA to make gender neutral.
- (5) IRM 13.9.1.2, removed italic font for titles per the IRM Style Guide and replaced the pronoun her with NTA to make gender neutral.
- (6) IRM 13.9.1.3, replaced pronouns with the appropriate titles to make gender neutral and removed the section symbol per IRM Style Guide.
- (7) IRM 13.9.1.4, removed the section symbol per IRM Style Guide.
- (8) IRM 13.9.1.3.2(2)(f), updated style of the numbering above 10 in this section and throughout the IRM per the IRM Style Guide.

EFFECT ON OTHER DOCUMENTS

IRM 13.9.1, dated 10-08-2020, is superseded. The IRM Procedural Update 22U0284, issued on February 17, 2022, and IPU 22U0656, issued on May 27, 2022, have been incorporated into this IRM.

AUDIENCE

Taxpayer Advocate Service and all Operating Divisions and Functions

Erin M. Collins
National Taxpayer Advocate

13.9.1

Procedures for Taxpayer Advocate Directives

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13.9.1.1
(10-08-2020)
Program Scope and Objectives

- (1) **Purpose:** This section contains procedures relating to Taxpayer Advocate Directives (TADs).
- (2) **Audience:** The primary users of this IRM are the National Taxpayer Advocate (NTA), the heads of all IRS Operating Divisions (ODs) or functions, the IRS Deputy Commissioners, the Commissioner of Internal Revenue, and the staff of these senior leaders.
- (3) **Policy Owner:** The NTA owns the policies contained herein.
- (4) **Program Owner:** The NTA administers the TAD process.
- (5) **Primary Stakeholders:** All IRS employees are stakeholders in the TAD process.

13.9.1.1.1
(02-16-2023)
Background

- (1) Pursuant to Delegation Order (DO) 250, effective March 17, 1998, IRS Commissioner Rossotti delegated the authority to issue TADs to the NTA.
- (2) DO 250 explained that a TAD enables the NTA to direct improvements to IRS operations or to grant relief to groups of taxpayers (or all taxpayers) in much the same way that the NTA may use a Taxpayer Assistance Order (under IRC 7811) to order relief for individual taxpayers.
- (3) According to a “note to reviewers,” DO 250 was revised by IRS Commissioner Rossotti on January 17, 2001, to remove the procedures for issuing TADs from the DO because “[t]hese procedures are more appropriately set forth in documents such as the Internal Revenue Manual.”
- (4) DO 250 (Rev. 1) was subsequently renumbered as DO 13-3 and the authority to modify or rescind a TAD was given to both the Deputy Commissioner for Services and Enforcement, and the Deputy Commissioner for Operations Support.
- (5) Section 1301(a) of the Taxpayer First Act (P.L. 116-25), which was enacted on July 1, 2019, establishes a time line for the TAD appeal process. It also requires the NTA to identify in the Annual Report to Congress any TAD which was not honored in a timely manner.

13.9.1.1.2
(02-16-2023)
Authority

- (1) DO 13-3 (IRM 1.2.2.12.3, Delegation Order 13-3 (formerly DO-250, Rev. 1) Authority to Issue Taxpayer Advocate Directives) grants the NTA authority to issue TADs. It states that the NTA may issue a TAD to: “mandate administrative or procedural changes to improve the operation of a functional process or to grant relief to groups of taxpayers (or all taxpayers) when implementation will protect the rights of taxpayers, prevent undue burden, ensure equitable treatment or provide an essential service to taxpayers.” If agreed upon, IRC 7803(c)(5)(A) provides that the IRS Commissioner or a Deputy Commissioner shall ensure compliance with such directive not later than 90 days after its issuance.
- (2) The DO also grants authority to modify or rescind a TAD to the NTA and the Deputy Commissioners. The authority to issue, modify, or rescind a TAD may not be redelegated.
- (3) IRC 7803(c)(5)(B) grants the NTA the authority to appeal a TAD to the IRS Commissioner.

13.9.1.1.3
(02-16-2023)
**Program Management
and Review**

- (1) The NTA will summarize TAD activity in the Annual Report to Congress that is required by IRC 7803(c)(2)(B)(ii) and may include copies of TADs in these reports (redacted, if necessary).
- (2) The NTA will identify in the Annual Report to Congress, any TADs not honored by the IRS in a timely manner, as required by IRC 7803(c)(2)(B)(ii)(VIII).
- (3) TAS may publish TADs, TAD appeals, and the IRS's formal response to TADs on the TAS website, after making any necessary redactions. TAS may seek assistance from the Division Counsel/Associate Chief Counsel (National Taxpayer Advocate Program) to request that the office of the Associate Chief Counsel, Procedure and Administration provide review of any redaction questions.

13.9.1.1.4
(02-16-2023)
Terms

- (1) The following table contains terms that are used throughout this IRM.

Term	Definition
Deputy Commissioner	The term Deputy Commissioner refers to the Deputy Commissioner for Services and Enforcement, the Deputy Commissioner for Operations Support, and any successor(s) to these positions.
Proposed Taxpayer Advocate Directive	A proposed TAD is a written communication from the NTA that recommends action (or forbearance of action) to address a systemic problem that affects multiple taxpayers, which TAS has brought to the attention of the responsible head of office.
TAD	A TAD is a tool that the NTA may use to elevate systemic issues that affect multiple taxpayers to ensure that IRS senior leadership is fully informed of urgent and significant issues and the NTA's recommendations to address those issues.

13.9.1.1.5
(10-08-2020)
Acronyms

- (1) The following table contains acronyms that are used throughout this IRM.

Acronym	Definition
DO	Delegation Order
IRC	Internal Revenue Code
IRM	Internal Revenue Manual

Acronym	Definition
IRS	Internal Revenue Service
NTA	National Taxpayer Advocate
OD	Operating Division
P.L.	Public Law
TAD	Taxpayer Advocate Directive

13.9.1.2

(02-16-2023)

The Pre-TAD Process

- (1) While the TAD process itself provides responsible IRS officials an opportunity to address the NTA's concerns, the communications that precede a TAD provide additional opportunities for the OD or function to address the concerns and work with the NTA to resolve issues.
 - a. Before issuing a proposed TAD, TAS generally attempts to work with the process owner(s) to implement change. See IRM 13.2, Systemic Advocacy (discussing informal communications and advocacy proposals).
 - b. Before the NTA issues a TAD, TAS normally communicates the NTA's concerns to the responsible OD or function using a proposed TAD. A proposed TAD can be in the form of a memorandum or an email communication from the NTA to a head of office. It includes or references one or more actions to address a problem with an IRS operation of a functional process affecting a group of taxpayers (or all taxpayers).
- (2) A Most Serious Problem in an Annual Report to Congress is not a proposed TAD.
- (3) A proposed TAD may specify a period of no less than 15 days to respond. If no period is specified, the recipient will have 90 days to respond. Only the NTA may grant an extension of the period to respond. The NTA will grant reasonable requests to extend the period to respond.
 - a. If the responsible OD or function does not agree to take the proposed action(s) to address the problem, it will provide a written explanation of the reasons. The response can be in the form of a memorandum or email communication from the head of office to the NTA. It may include a counterproposal for addressing the problem.
 - b. The NTA may agree with the OD or function that no action is warranted, accept an alternative suggestion, or accept a proposal by the OD or function to work with TAS on a solution. The NTA will inform the OD or function within 60 days whether the NTA will agree or if the NTA plans to pursue a TAD or other avenue to address the concern.
 - c. There is no appeal of a proposed TAD.
- (4) The NTA will provide a copy of any proposed TAD to the applicable Deputy Commissioner.

13.9.1.3
(02-16-2023)
The TAD Process

- (1) The NTA may issue a TAD to the appropriate Deputy Commissioner if the head of the responsible OD or function does not timely respond to a proposed TAD, or if the response does not fully address the NTA's concerns. The NTA will provide a copy of any TAD (and any modification to a TAD) to the IRS Commissioner so that the IRS Commissioner may timely fulfill the duties under IRC 7803(c)(5). The NTA will also provide a copy of the TAD to the head of the responsible OD or function.
- (2) Although a proposed TAD is generally issued before a TAD, if the NTA determines that the problem is immediate in nature and a delay in addressing it would have a significant negative impact on taxpayers, the NTA may issue a TAD without first issuing a proposed TAD.
- (3) While a TAD is pending, the OD or function is not required to take the action(s) specified in the TAD. It may continue normal operations; however, it will not take any action that would make it impossible for the IRS Commissioner or a Deputy Commissioner to ensure that the OD or function complies with the TAD within the 90 day period(s) provided by IRC 7803(c)(5). If an assessment or collection statute of limitation is set to expire, the IRS is not prohibited from protecting the statute while the appeal of a TAD is under consideration.
- (4) The Deputy Commissioner will modify, rescind, or ensure compliance with the TAD by the response date - a date not earlier than 45 days and not later than 90 days after its issuance. The NTA will grant reasonable requests to extend the period to respond, not to exceed the 90-day period provided in IRC 7803(c)(5)(A). If the Deputy Commissioner modifies or rescinds the TAD, the Deputy Commissioner will provide the NTA with a written explanation of the reasons.

13.9.1.3.1
(10-08-2020)
Examples of When TADS May Be Issued and to Whom

- (1) **TAD following a Proposed TAD.** The NTA issues a proposed TAD in the form of an email communication to the head of an OD or function, which proposes systemic changes to address a problem. The email has "Proposed TAD" in the subject line. The NTA provides a copy to the Deputy Commissioner. The responsible OD or function enters into negotiations with TAS to address the concerns. If those negotiations are not progressing as expected, the NTA may issue a TAD.
- (2) **TAD without a Proposed TAD.** The NTA learns that an OD plans to cut essential services to taxpayers during the filing season, which is five months away. The NTA proposes a way to change procedures that would allow the IRS to avoid these cuts. Normal procedures for resolving TADs may take more than five months. Because the problem is immediate in nature and will have a significant negative impact on taxpayers, the NTA may issue a TAD without first issuing a proposed TAD.

13.9.1.3.2
(02-16-2023)
The Content of a TAD

- (1) A TAD is written as a memo from the NTA to a Deputy Commissioner.
- (2) For ease of reference, each TAD includes a document number in the subject line. For example, the first TAD issued by the NTA in calendar year 2022 would be numbered as "TAD 2022-1" and the second would be numbered "TAD 2022-2." In some cases, explanatory materials will be included as attachments, rather than in the body of the TAD.
- (3) A TAD normally includes the following:

- a. Specific action(s) that the NTA directs.
- b. Discussion of the reasons for the NTA's directive(s).
- c. Efforts by TAS to work with the OD or function to resolve the issue (*e.g.*, by discussing the issue at meetings and issuing a proposed TAD), and any response (or lack of response) received from the OD or function.
- d. Why the response (or lack of response) by the OD or function does not fully address the concern.
- e. If the NTA has determined to forego a proposed TAD, the reasons for doing so.
- f. The date by which a response is required (no less than 45 days from the issuance of the TAD, called the response period).
- g. A date by which the directed action (action date) is to be completed (no sooner than the date by which a response is required in IRM 13.9.1.3.2(3)(f)).

13.9.1.4
(02-16-2023)

The TAD Appeal Process

- (1) In the case of any TAD which is modified or rescinded by a Deputy Commissioner, the NTA may appeal the modification or rescission to the IRS Commissioner. The NTA will appeal within the same number of days as the response period (described in IRM 13.9.1.3.2 (3)(f)). The Deputy Commissioner will grant reasonable requests to extend the period to appeal, not to exceed the 90-day period provided in IRC 7803(c)(5)(B).

Note: If the NTA does not respond to the Deputy Commissioner's modification or rescission within the period described in IRM 13.9.1.4 (1), the Deputy Commissioner's decision is final.

- (2) The IRS Commissioner will, not later than 90 days after the NTA appeals the modification or rescission of a TAD by the Deputy Commissioner, either:
 - a. Ensure compliance with the TAD as issued by the NTA or modified by the Deputy Commissioner, or
 - b. Provide the NTA with the reasons in writing for any modification or rescission made or upheld by the IRS Commissioner, as required by IRC 7803(c)(5)(B).

