

CC-2005-004

February 04, 2005

Subject: Changes to Procedures for Associate Chief Counsel Review in Significant Bankruptcy Cases
Cancel Date: Upon incorporation into CCDM

I. Purpose

This Notice announces changes to procedures for Associate Chief Counsel review in significant bankruptcy cases. Chief Counsel attorneys working Chapter 11 cases under the Significant Bankruptcy Case Program should forward disclosure statements and plans in certain cases to the Office of Assistant Chief Counsel (Collection, Bankruptcy & Summonses) to ensure coordination and coordinate review with technical subject matter experts in the Associate Chief Counsel offices.

II. Current Plan Review under Significant Bankruptcy Case Program

CCDM 34.3.1.3 provides coordination procedures for attorneys working Chapter 11 bankruptcy cases deemed significant due to the amount of the debtor's assets or unpaid liabilities, or certain other criteria. CCDM 34.3.1.3.4 directs review of disclosure statements and plans to determine whether the plans raise substantive tax issues that should be addressed in the bankruptcy case or in a future audit. In most cases, the disclosure statements and plans are reviewed by a SB/SE Associate Area Counsel attorney. If there are issues that require the assistance of technical experts in the Associate offices, the disclosure statements and plans are forwarded to the Significant Bankruptcy Case Coordinator in Branch 2 of the Office of Assistant Chief Counsel (Collection, Bankruptcy & Summonses) who coordinates the issues with the appropriate technical subject matter experts within the various Associate offices.

III. Change in Procedures

To assist attorneys in identifying and evaluating significant substantive tax issues, plan and disclosure statements meeting the case criteria described below should be immediately referred for expedited review by technical subject matter experts in the Associate Chief Counsel offices. Bankruptcy cases with these criteria are likely to

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involve significant tax issues and immediate referral of these plans and disclosure statements will give the technical subject matter experts additional time to evaluate these voluminous documents. Therefore, effective immediately, in addition to the present procedures for plan review, disclosure statements and plans filed in cases worked under the Significant Bankruptcy Case Program should be forwarded to the Significant Bankruptcy Case Coordinator in Branch 2 of the Office of Assistant Chief Counsel, Procedure & Administration (Collection, Bankruptcy & Summonses) in all cases in which:

- The debtor has a \$100 million or more in gross assets;
- The debtor files a motion to restrict or prohibit the sale or other disposition of its stock;
- The debtor files a motion to sell or otherwise dispose of a significant or material portion of its assets for consideration other than cash;
- The plan provides for a significant delay between plan confirmation and debt discharge (for example, debts are discharged after the close of the tax year when plan confirmation occurs);
- The debtor files a prepackaged plan;
- The plan provides for the creation of a liquidating trust and the terms of the plan do not conform to the requirements for a liquidating trust in Revenue Procedure 94-45;
- The disclosure statement or plan indicates that there are foreign tax claims against the debtor;
- The plan provides for the termination of a qualified pension plan;
- The disclosure statement or plan indicates that the debtor has experienced a 20% or greater workforce reduction after one year before the bankruptcy petition was filed;
- The debtor proposes to pay off a previously unpaid pension contribution;
- The debtor fails to meet minimum funding obligations for its pension plans or proposes that minimum pension funding obligations will not be met; or
- The plan anticipates a reduction of employment taxes based upon a substantial recharacterization of workforce relationships, or wage compensation, with no indication of a sufficient change in the underlying facts to support such recharacterization.

In addition, motions to sell or otherwise dispose of a significant or material portion of the debtor's assets for consideration other than cash should be forwarded to the Significant Bankruptcy Case Coordinator in Branch 2.

Whenever possible, the disclosure statements, plans, and motions should be downloaded from PACER and sent via email. The email should include the basis for the referral to the Associate Chief Counsel offices and the relevant deadlines in the bankruptcy case.

