



IRS Nationwide **Tax Forum** | 2020

Working with IRS Independent Office of Appeals

Objectives

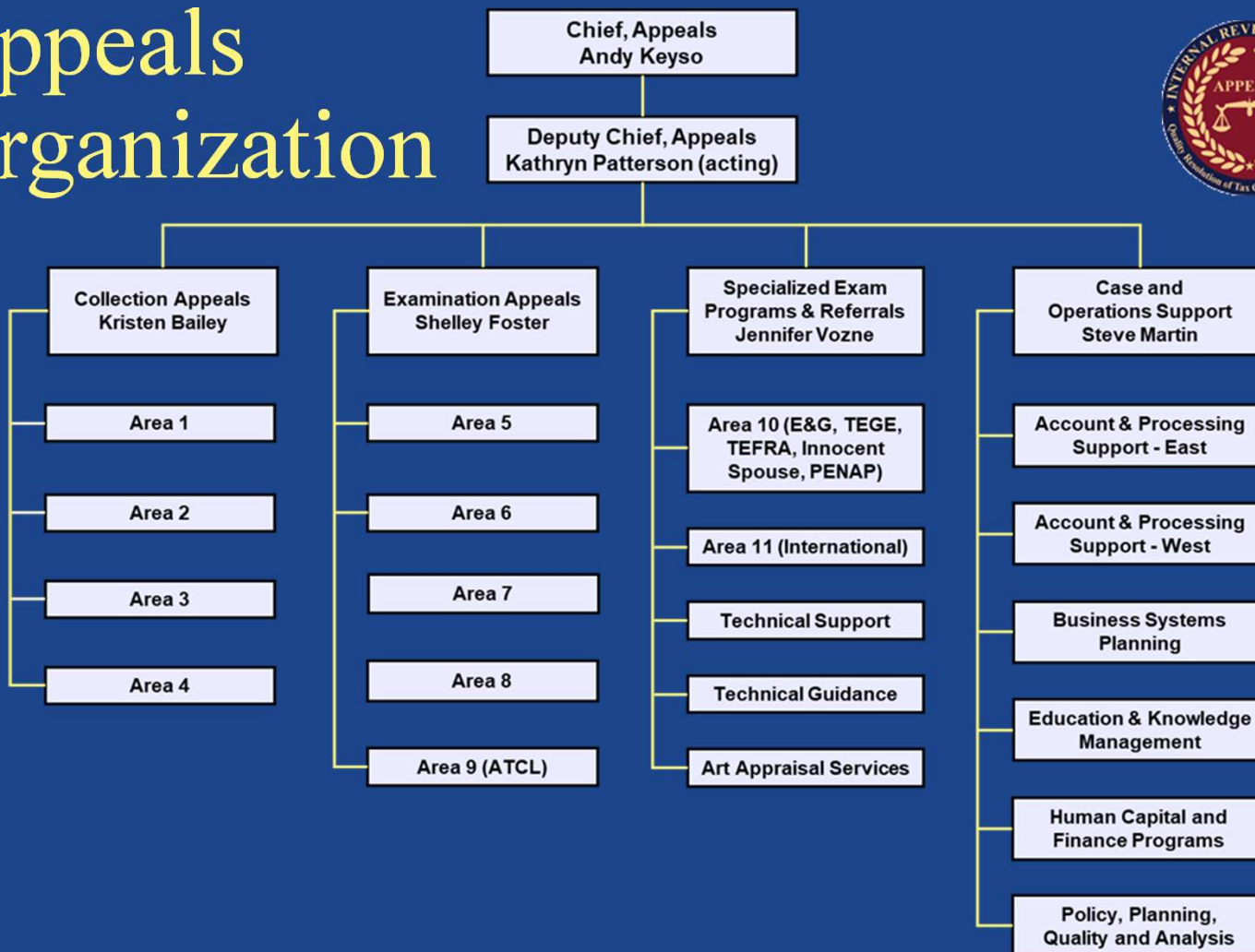
At the end of this session you will have a general understanding of the:

- Appeals Process
- Taxpayer First Act (TFA)
- Examination Appeals Workstreams
- Collection Appeals Workstreams

Appeals' Purpose and Duties

To resolve Federal tax controversies without litigation on a basis which is fair and impartial to both the Government and the taxpayer, promote a consistent application and interpretation of, and voluntary compliance with, the Federal tax laws, and enhance public confidence in the integrity and efficiency of the Internal Revenue Service.

Appeals Organization



Appeals Process

- Taxpayer protests an IRS determination.
- Appeals receives file from Compliance and contacts taxpayer to schedule a conference.
- Taxpayer and Appeals discuss the facts, arguments, and law during the conference.
- Appeals attempts to resolve the case with taxpayer based on a fair and impartial review.

Ex Parte Communications

- Section 1001(a) of the IRS Restructuring and Reform Act of 1998 (RRA '98) requires that the Commissioner ensure an independent appeals function.
- This includes the prohibition of ex parte communication between Appeals personnel and other IRS personnel to the extent that such communications appear to compromise the independence of Appeals.

Conference Methods

- In Person
- Telephone
- Virtual (WebEx)
- Correspondence

Taxpayer First Act

- Signed into law July 1, 2019.
- Established the IRS *Independent* Office of Appeals.
- Codified Appeals' role as an administrative appeal function charged with resolving disputes between taxpayers and the IRS in a fair and impartial manner.

Taxpayer First Act (cont'd)

- New IRC section 7803(e)(4) provides that the resolution process described in the prior slide “shall be generally available to all taxpayers.”
- The TFA provides that Appeals shall have authority to obtain legal assistance and advice from the staff of the Office of the Chief Counsel.
 - Chief Counsel shall ensure, “to the extent practicable, that such assistance and advice is provided by staff of the Office of the Chief Counsel who were not involved in the case with respect to which such assistance and advice is sought and who are not involved in preparing such case for litigation.”

Taxpayer First Act - Case File Access

- The TFA requires that, upon request, certain “specified” taxpayers be provided access to the non-privileged contents of their case files no later than 10 days before a scheduled Appeals conference.
- The case file access provision applies to any Appeals conference held after July 1, 2020.
- This provision applies only to cases of “specified” taxpayers:
 - For individuals, this means taxpayers whose AGI does not exceed \$400,000 for the taxable year at issue.
 - For other taxpayers, this means taxpayers whose gross receipts do not exceed \$5 million for the taxable year at issue.

Examination Appeals Workstreams

- Non-Docketed
 - Notice of Proposed Adjustment
 - Claims and audit reconsideration
 - Penalty and interest abatement
- Docketed (Regular and S-cases)
 - Petitioned by taxpayer to U.S. Tax Court
 - Chief Counsel refers case to Appeals after Answer

Appeals Settlement Authority

- Appeals is expressly authorized to enter into settlements that take into consideration hazards of litigation.
- A “litigating hazard” is a substantial uncertainty in the event of litigation as to:
 - How the courts would interpret and apply the law;
 - What facts the courts would find; or
 - The admissibility of or weight that would be given to a specific item of evidence.

For Best Results . . .

- Prepare an adequate protest that fully explains your position.
- Submit all documentation at the exam stage – don't present documentation for the first time at Appeals.
- Respond timely.
- Attend the settlement conference with a realistic view of the litigation hazards and a general idea of an acceptable resolution of the dispute.

Examination Appeals Scenario

Substantiation:

- Exam audited Taxpayer's 2018 Form 1040 and disallowed Schedule C expenses for lack of substantiation.
- Taxpayer disagreed and filed a protest.
- Taxpayer has the burden of establishing an entitlement to a deduction.

Collection Appeals Workstreams

- Collection Appeals Program (CAP)
- Collection Due Process (CDP)
- Offer In Compromise (OIC)
- Trust Fund Recovery Penalty (TFRP)

Collection Due Process

- Request for appeal must be postmarked within 30 days of the date of the IRS notice of proposed collection action (Lien or Final Demand to Pay)
- Collection alternatives may be raised
- Opportunity to petition the Tax Court for judicial review
- Requested via Form 12153 or its Equivalent

Alternatives in CDP

- Collection Alternatives:
 - Full Payment
 - Currently Not Collectible (CNC)
 - Installment Agreement
 - Offer In Compromise (OIC)
 - Doubt as to Collectibility
 - Effective Tax Administration
- Raising Liability Issues:
 - Offer In Compromise (OIC) – Doubt as to Liability
 - Adjustments to Tax and/or Penalties

Collection Appeals Case Scenario

- 1040 Joint Income Tax Liability; timely submitted CDP request contesting the proposed levy action (Letter 1058) for year 2016.
- Taxpayer husband and wife are seeking an OIC as a collection alternative.
- OIC unit proposes rejection based on the reasonable collection potential (RCP) being greater than the offer amount.
- Taxpayer disputes monthly income valuation and inclusion of a dissipated asset in the RCP.
- Appeals retains jurisdiction under CDP.



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IRS.gov
Independent
Office of
Appeals
Website

IRS.gov Appeals Website

- New design improves mobile device accessibility
- Structured *About Your Appeal* to better follow “flow” of appeal process
- Former self-help tool pages (*Special Case Procedures*) consolidated to reduce number of “clicks” to get to needed information

FAQs (1)

Where should I send my appeal request?

- **Non-Docketed case:** Complete your protest and mail it to the IRS address on the letter that explains your appeal rights. Don't send your protest directly to the Office of Appeals; this will only delay the process and may prevent Appeals from considering your case.
- **Docketed Tax Court case:** Chief Counsel will send your case to Appeals after filing Answer.

FAQs (2)

When should I expect to hear from Appeals after I make my request for Appeals consideration?

Once the case had been received in Appeals, an initial contact letter should be sent to you within 45 days if your Appeal is to Examination Appeals and within 30 days if your Appeal is to Collection Appeals. That letter will propose a conference date at which time your appeal can be heard. The proposed conference date can be changed by following the instructions in the letter.

FAQs (3)

How can I find out who is handling my case?

You can reach us at 559-233-1267. Leave a message with your name and identifying number and we'll research the status of the case and return your call within 48 hours if your case has been received in Appeals. For additional information visit: <https://www.irs.gov/appeals/what-to-expect-from-appeals>.