



IRS Nationwide Tax Forum | 2021

A Closer Look at the Independent Office of Appeals
Tuesday, July 27th, 2021

Start Time: 11:00am Eastern / 10:00am Central
9:00am Mountain / 8:00am Pacific

Note: You should be hearing music while waiting for webinar to start.

Having Technical Issues?

View the “Technical Issues” troubleshooting guide in the Materials drop-down menu on the left side of this page



Objectives

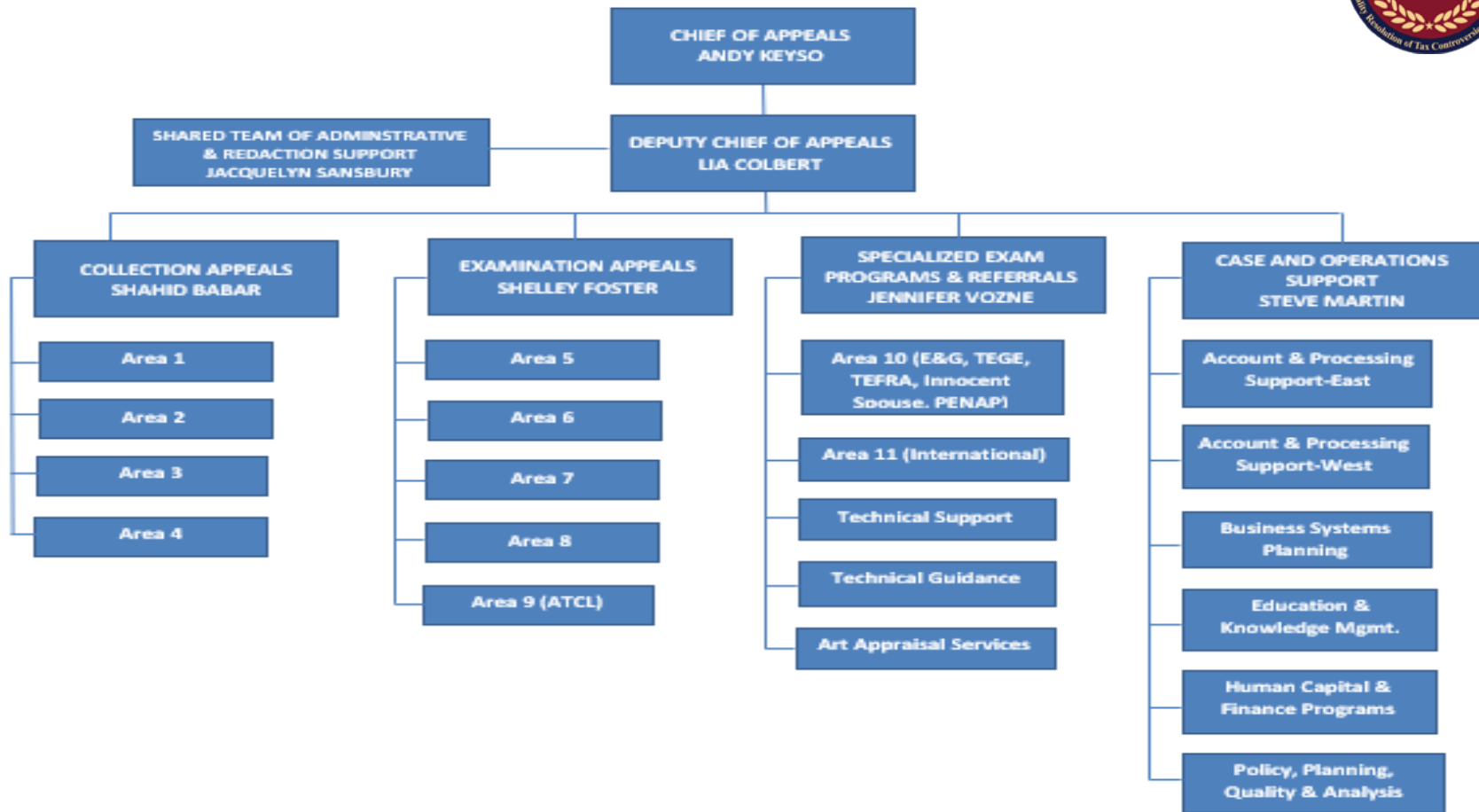
At the end of this session, you will have a general understanding of the:

- 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, promotes a consistent application and interpretation of, and voluntary compliance with, the Federal tax laws, and enhances public confidence in the integrity and efficiency of the Internal Revenue Service.

Appeals Organization





Appeals Process

- Taxpayer submits a timely and adequate protest to an IRS determination
- Appeals receives a case assignment about the protested matter and contacts the taxpayer to schedule a conference.
- Taxpayer and Appeals discuss the facts, arguments and law during the conference.
- Appeals attempts to resolve the case based on a fair and impartial review.



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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.



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Conference Methods

- In Person (within current COVID limitations)
- Telephone
- Virtual (WebEx or Zoom)
- Correspondence

Taxpayer First Act (TFA)

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



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Taxpayer First Act (continued)

- TFA added IRC section 7803(e)(4) providing that the Appeals resolution process “shall be generally available to all taxpayers.”
- TFA provides that Appeals shall have the 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 case file access provision applies to any Appeals conference held after July 1, 2020.
- TFA requires that “specified” taxpayers will be provided access to the non-privileged contents of their case files exclusive of information provided by the taxpayer or unrelated to the disputed issues, upon their request, no later than 10 days before a scheduled Appeals conference.
- For individuals, this means taxpayers whose Adjusted Gross Income (AGI) does not exceed \$400,000 for any of the taxable years at issue.
- For other taxpayers, this means taxpayers whose gross receipts do not exceed \$5 million for any of the taxable years 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 consider hazards of litigation when attempting to settle tax disputes.
- Hazards of litigation refers to the 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 statement of the protested items adjusted by Compliance that fully explains your position.
- Submit all documentation to Compliance – don't save documents for Appeals. Appeals will not be the first reviewer of information.
- Respond timely.
- Attend the settlement conference with a realistic view of the litigating hazards and a general idea of an acceptable resolution of the dispute.



Examination Appeals Scenario

Substantiation:

- Exam audited taxpayer's 2019 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.



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Collection Appeals Workstreams

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



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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

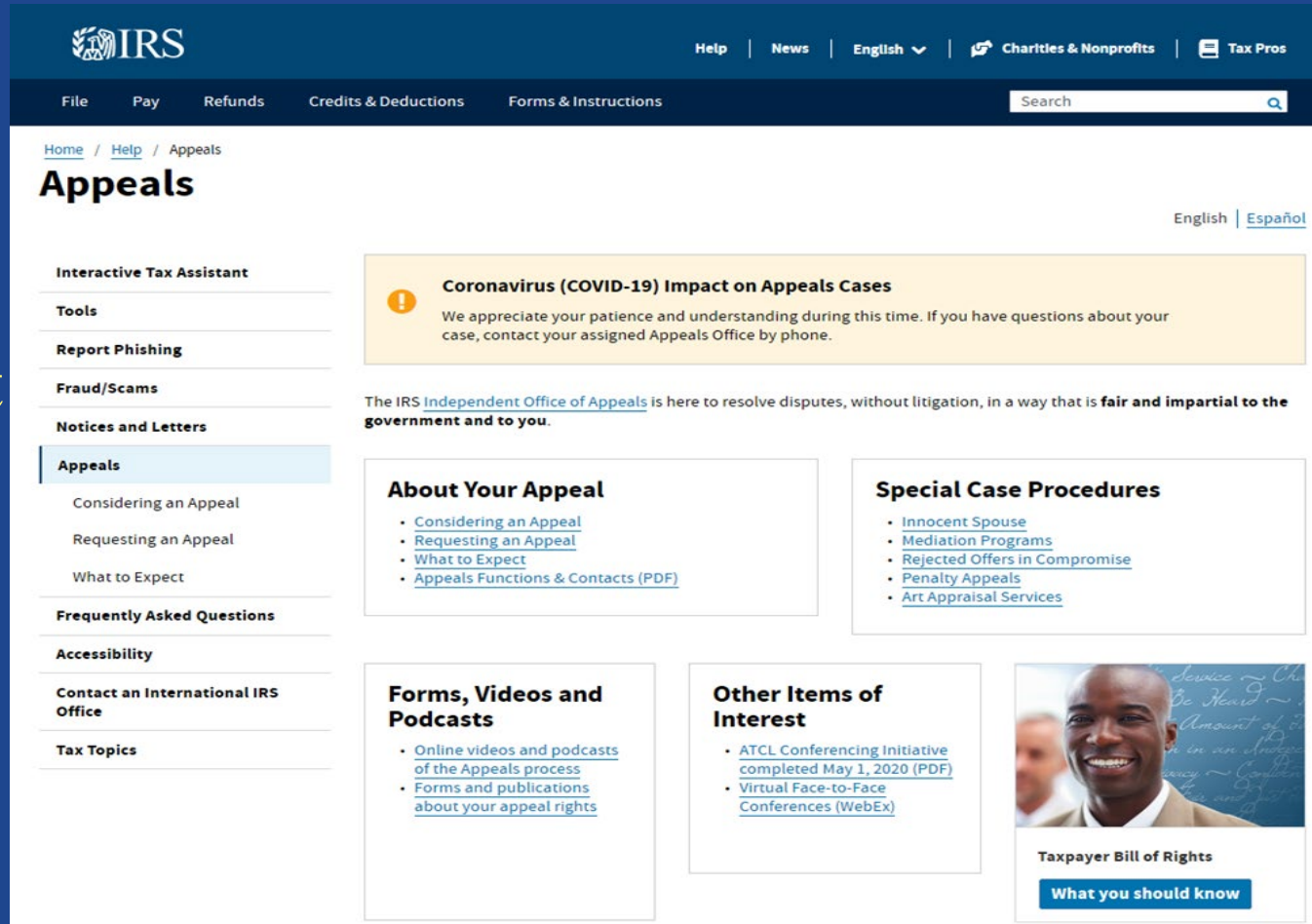
- Collection Alternatives:
 - Full Payment
 - Currently Not Collectible (CNC)
 - Installment Agreement
 - Offer In Compromise (OIC)
 - Doubt as to Collectability
 - Effective Tax Administration
- Raising Liability Issues:
 - OIC – Doubt as to Liability
 - Adjustments to Tax and/or Penalties



Collection Appeals Case Scenario

- 1040 Joint Income Tax Liability; timely submitted CDP request contesting a filed NFTL (Letter 3172) and the proposed levy action (Letter 1058) for year 2018.
- Taxpayers are seeking an Installment Agreement (IA) as a collection alternative.
- Taxpayers are disputing the Service's monthly income and expense valuation and request to borrow against real property to pay down the liability.
- Appeals retains jurisdiction under CDP.

IRS.gov
 Independent
 Office of
 Appeals
 Website



The screenshot shows the IRS.gov Appeals website. At the top, there is a dark blue navigation bar with the IRS logo on the left and links for Help, News, English (with a dropdown arrow), Charities & Nonprofits, and Tax Pros on the right. Below this is a secondary navigation bar with links for File, Pay, Refunds, Credits & Deductions, and Forms & Instructions, along with a search bar on the right. The main content area has a breadcrumb trail: Home / Help / Appeals. The title 'Appeals' is prominently displayed. On the right side of the main content, there are language options for English and Español. A left-hand sidebar contains a list of menu items: Interactive Tax Assistant, Tools, Report Phishing, Fraud/Scams, Notices and Letters, Appeals (which is highlighted with a blue background), Frequently Asked Questions, Accessibility, Contact an International IRS Office, and Tax Topics. The main content area features a yellow banner with an information icon and the heading 'Coronavirus (COVID-19) Impact on Appeals Cases', followed by a paragraph of text. Below this is a paragraph stating the purpose of the Independent Office of Appeals. There are three main content boxes: 'About Your Appeal' with a list of links, 'Special Case Procedures' with a list of links, and 'Forms, Videos and Podcasts' with a list of links. To the right of these is a box titled 'Other Items of Interest' with a list of links. At the bottom right, there is a photo of a smiling man and a section titled 'Taxpayer Bill of Rights' with a 'What you should know' button.



IRS.gov Appeals Website

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



FAQs

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 Independent 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 an Answer to the Tax Court.



FAQ

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

- Once a case has 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.



FAQ

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>.