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Working with the IRS Office of Appeals – What to Expect in Examination Appeals

The Office of Appeals

- Established in 1927
- Informal administrative forum
- Settle tax disputes without trial
- Fair and Impartial
- Independent



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The Mission of Appeals

“To resolve tax controversies, without litigation, on a basis which is fair and impartial to both the Government and the taxpayer in a manner that will enhance voluntary compliance and public confidence in the integrity and efficiency of the Service.”

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Accomplishing the Mission

- How do we accomplish the Mission of Appeals?
 - Listening and considering both sides
 - Considering and evaluating all arguments and available information
 - Independently determining the best settlement of the tax dispute by weighing the hazards of litigation



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Ex Parte Communications

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



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Types of Examination cases

- Non-Docketed
 - 30-day or Protested cases
 - Innocent spouse
 - Claims and audit reconsideration
 - Penalty and Interest abatement
- Docketed
 - Petitioned cases



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Appeals Process

- Conference
- Discuss facts, arguments and law
- Render determination with settlement proposal



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Representation in Appeals

- Attorney
- Certified Public Accountant (CPA)
- Enrolled Agent (EA)



Prompt Resolution

- Adequate protest
- Early submission of documentation
- Make a settlement offer
- Adhere to due dates
- Avoid postponing or delaying conference



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Conference Methods

- Telephone
- Correspondence
- Virtual
- In Person



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Docketed Cases

- Two types
 - S-Cases
 - Regular cases



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Hazards of Litigation (HOL)

- Factual
- Legal
- Evidentiary



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New Issues/Information

- With new information or evidence, Appeals Officer will:
- Determine if new info merits additional analysis or investigation by examination
 - If so:
 - Appeals will return case for examination of info/evidence and make a determination
 - See IRM 8.6.1.6.5



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New Theory or New Argument

- When a taxpayer raises a new theory/argument, exam may evaluate and provide their opinion
- Appeals will retain jurisdiction and allow original examiner to review and comment



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Corroborating vs. New Information

- Some information may be deemed not “new information” but instead corroborating or supporting information
- In these instances it would not be required to return the case to Compliance for consideration



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Case Procedures – Docketed Cases

- Appeals focuses on reducing the number of cases that go to trial by settling them
- Appeals does not investigate or analyze records
- When taxpayer wants to submit new information, AP reviews to determine whether it merits additional analysis by Compliance
- If so, AO makes an Examination Assistance Request



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Alternative Dispute Resolution (ADR)

- While cases are still under the jurisdiction of Compliance, ADR programs should be considered to attempt resolution of the disputed issues
 - Early Referral
 - Fast Track Settlement



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Early Referral

- Objective is for exam to work simultaneously with Appeals to resolve cases more quickly
- Taxpayers whose returns are under jurisdiction of exam may request transfer of a developed but unagreed issue to Appeals



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Fast Track Settlement (FTS)

- Prior to issuance of 30-day letter
- Not in agreement with adjustments
- Does not extend 30-day period
- Taxpayers retain appeal rights
 - LB&I – 120 days – see Publication 4539
 - SBSE – 60 days – see Publication 5022
 - TEGE – 60 days – see Publication 5092



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Post Appeals Mediation (PAM)

- Non-Binding
- Utilize a mediator
- May utilize a co-mediator
- Mediator does not have settlement authority

Refer to Publication 4167



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Case Study 1

- Casualty loss on home and business
- Claimed loss disallowed based on insurance reimbursement
- Notice of Deficiency issued
- Appeals Officer sustained determination



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Case Study 2

- Taxpayer provides tax preparation services
- Examiner conducted EIC due diligence review
- IRC Section 6695 due diligence penalty asserted
- Failed knowledge and/or record keeping requirements
- Taxpayer appealed penalty



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Appeals... Resolving Tax Disputes



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- Self-Employed
- International Taxpayers
- Military
- Parents
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Appeals



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About the Office of Appeals

Every year, the Office of Appeals helps more than 100,000 taxpayers resolve their tax disputes without going to Tax Court. We are an independent organization within the IRS whose mission is to help taxpayers and the Government resolve tax disagreements. Appeals does not seek to take sides in a dispute; rather we offer an objective point of view on each individual case. We review each case after the applicable IRS compliance has made its decision and work to resolve disagreements in the case on a basis that is fair and impartial to both the Government and the taxpayer.

Appeals also offers mediation services through Fast Track Settlement and other programs. These mediation programs are designed to help you resolve your dispute at the earliest possible stage in the audit or collection process.

Getting Started with Appeals

If you've received an IRS letter stating that your case qualifies to be reviewed by Appeals, then the following topics will help you get started.

- [Appeals – An Independent Organization](#)
- [Is Appeals the place for you?](#)
- [Requesting an Appeal](#)
- [What can you expect from Appeals?](#)
- [How Appeals is organized \(updated 10/2016\)](#)

Helpful Tools

- › [Online Videos and Podcasts of the Appeals Process](#)
- › [Appeals Online Self-Help Tools](#)
- › [Forms and Publications About Your Appeal Rights](#)

Programs & Services

- › [Appeals Mediation Programs](#)
- › [Domestic and International Programs](#)
- › [Art Appraisal Services](#)



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What You Should Know >

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