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Working with IRS Office of Appeals:
What Happens in an Examination Appeals
Hearing?



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Office of Appeals

- Established in 1927
- Informal administrative forum
- Settles tax disputes without trial
- Fair and impartial
- Independent



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Appeals' Mission

“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

- Listen and consider both sides
- Evaluate all arguments and available information
- Determine an appropriate settlement by impartially weighing the hazards of litigation



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Ex Parte Communications Rules

- Prohibit oral or written communications about the substance of a specific case
- Between Appeals employees and Compliance or certain Counsel advisors
- To the extent such communications appear to compromise Appeals' independence
- Without giving the taxpayer an opportunity to participate



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How Cases Come to Appeals

- 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
 - ✓ IRS lawyer refers to Appeals prior to trial



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Overview of Appeals Process

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



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Conference Methods

- Telephone
- Virtual
- In Person
- Correspondence



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Taxpayer Representation in Appeals

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



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Prompt Resolution

- Prepare an adequate protest
- Submit documentation early
- Make a good faith settlement offer
- Adhere to due dates
- Avoid postponing or delaying conference



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Hazards of Litigation

- **Factual:** What facts would court find?
- **Legal:** How would court interpret and apply law?
- **Evidentiary** – What evidence would be admissible and what weight would court give it?



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New Issues

Appeals generally returns non-docketed cases to Compliance when taxpayer raises a new issue warranting investigation or additional analysis.



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New Information

- If the taxpayer provides new information to Appeals on a non-docketed case, the Appeals Officer will determine whether the new information merits additional analysis or investigation by Compliance. If it does, Appeals will generally return the case for examination of the information and allow Compliance to decide.
- Appeals requests assistance to allow a Revenue Agent to review new information submitted by taxpayers with docketed cases because docketed cases cannot be returned to Compliance.



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New Theory or New Argument

- Appeals generally engages Compliance for review and comment (subject to *ex parte* requirements) when:
 - ✓ Taxpayer raises a new theory or alternative legal argument on a non-docketed case



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Corroborating vs. New Information

- Appeals may deem some information not previously provided to Compliance as corroborating or supporting information rather than new information
- Appeals is not required to return the case to Compliance for corroborating or supporting information



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Dispute Resolution Options

- Traditional Appeals
- Early Referral
- Mediation
 - ✓ *Fast Track Settlement*
 - ✓ *Post-Appeals Mediation*



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Fast Track Settlement

- Voluntary mediation process available before Compliance makes a determination
- Factual and legal issues must be fully developed
- Appeals employee serves as mediator and may propose settlement based on litigating hazards
- Process may result in earlier case resolution
- Eligibility requirements apply



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Post Appeals Mediation (PAM)

- Optional process taxpayers may request if traditional Appeals negotiations break down
- Responsible Appeals manager decides if case is eligible
- A new Appeals employee serves as a mediator between original taxpayer and original Appeals Officer
- Must use Appeals mediator, but taxpayers can pay for non-IRS co-mediator
- Mediator(s) cannot impose settlement – parties must agree to any settlement



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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

- Schedule A employee business expenses of \$27,600
- Disallowed because of lack of substantiation and business purpose
- SND issued
- Settlement proposed by 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)



Taxpayer Bill of Rights

[What you should know](#)

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](#)
- [Technical Guidance International Programs](#)
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