



MANUAL TRANSMITTAL

Department of the Treasury
Internal Revenue Service

8.6.3

MARCH 12, 2025

EFFECTIVE DATE

(03-12-2025)

PURPOSE

- (1) This transmits revised IRM 8.6.3, Conference and Settlement Practices, Appeals Rulings.

MATERIAL CHANGES

- (1) Added Program Scope and Objectives with related subsections to comply with IRM 1.11.2.2.4, Address Management and Internal Controls. See IRM 8.6.3.1, Program Scope and Objectives, and IRM 8.6.3.1.1, Background, through IRM 8.6.3.1.6, Related Resources.
- (2) Updated the text to reference the new formal title of Appeals as codified in IRC 7803(e)(1) by the Taxpayer First Act: the IRS Independent Office of Appeals. See IRM 8.6.3.1 (1), Program Scope and Objectives.
- (3) Referenced the Taxpayer Bill of Rights in IRM 8.6.3.1.1 (4), Background. Added Taxpayer Bill of Rights-related content in IRM 8.6.3.1.1 (5), Background, based on guidance from the Division Counsel/Associate Chief Counsel (National Taxpayer Advocate Program) and Branch 3 of the Associate Chief Counsel (Procedure and Administration).
- (4) Added reference to IRM 25.30.2, Service Level Agreement between the IRS Independent Office of Appeals and the Taxpayer Advocate Service. See IRM 8.6.3.1.6 (2), Related Resources.
- (5) Made editorial changes throughout this IRM for clarity. Reviewed and revised text to incorporate plain language and correct grammatical errors, as well as to update website addresses, titles, legal references, and citations.

EFFECT ON OTHER DOCUMENTS

IRM 8.6.3, dated October 6, 2016, is superseded.

AUDIENCE

IRS Independent Office of Appeals (Appeals) employees

Patrick E. McGuire
Acting Director, Operations Support

8.6.3
Appeals Rulings

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8.6.3.1 (03-12-2025) Program Scope and Objectives

- (1) *Purpose:* This IRM primarily describes the processes used by the IRS Independent Office of Appeals (Appeals) with respect to case-related assistance available from various specialists, including certain attorneys in the IRS Office of Chief Counsel (Counsel), as well as actuaries and economists. It also addresses two substantive issues: requests for changes in accounting practices or methods and requests for extensions of time for making certain elections.
- (2) *Audience:* The primary users of this IRM section are Appeals technical employees (ATEs) and Appeals team managers (ATMs).
- (3) *Policy Owner:* Appeals Policy, Planning, Quality and Analysis (PPQ&A) is under the Director, Operations Support (OS).
- (4) *Program Owner:* Appeals Policy (Policy) is the program office responsible for providing technical and procedural guidance to the Appeals organization, and is under the Director, PPQ&A.
- (5) *Contact Information:* Appeals employees should follow established procedures on *How to Contact an Analyst*. Other employees should contact the Product Content Owner shown on the Product Catalog Information page for this IRM.

8.6.3.1.1 (03-12-2025) Background

- (1) Appeals is the only administrative function of the IRS with authority to consider settlements of tax controversies. Appeals has the primary responsibility to resolve these disputes, without litigation, to the maximum extent possible.
- (2) This IRM provides guidance and information to assist ATEs in requesting and receiving assistance from certain Counsel attorneys, actuaries, and economists in meeting the Appeals mission. It also provides general information on requests for changes in accounting practices or methods, as well as requests for extensions of time for making certain elections.
- (3) As stated in IRC 7803(e)(3), Purposes and Duties of Office, the Appeals mission is to resolve federal tax controversies without litigation, on a basis that 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 IRS.
- (4) Appeals accomplishes its mission by considering protested and Tax Court-docketed cases, holding conferences, and negotiating settlements in a manner that ensures Appeals employees are familiar with and follow the Taxpayer Bill of Rights (TBOR) in every interaction with taxpayers.
- (5) The TBOR lists rights that already existed in the tax code, putting them in simple language and grouping them into 10 fundamental rights. Employees are responsible for being familiar with and acting in accord with taxpayer rights. See IRC 7803(a)(3), Execution of Duties in Accord with Taxpayer Rights. For additional information about TBOR, see <https://www.irs.gov/taxpayer-bill-of-rights>.

8.6.3.1.2 (03-12-2025) Authority

- (1) See 26 CFR 601.106, Appeals Functions.
- (2) See IRC 7803(e), Independent Office of Appeals.

- (3) See also the various legal authorities cited throughout this IRM for more information on specific topics.

8.6.3.1.3
(03-12-2025)
Responsibilities

- (1) The Policy analyst shown on the Product Catalog page as the originator is the assigned author of this IRM.

8.6.3.1.4
(03-12-2025)
Program Reports

- (1) PPQ&A provides trend and data analyses and detailed summary reports for Appeals.

8.6.3.1.5
(03-12-2025)
Terms and Acronyms

- (1) See IRM Exhibit 8.1.1-1, Common Terms Used in Appeals, for common terms and definitions used in IRM Part 8. Terms listed in that exhibit are not reproduced in this section.
- (2) The following table lists commonly used acronyms and their definitions for relevant terms used in this IRM:

Term	Definition
CCDM	Chief Counsel Directives Manual
TAM	Technical advice memorandum

8.6.3.1.6
(03-12-2025)
Related Resources

- (1) This IRM is the primary source of guidance to Appeals' employees on this program. The text of this IRM contains various references to other related resources to assist Appeals employees.
- (2) In accordance with IRM 25.30.2.3, Statement of Commitment, Appeals will work collaboratively with the Taxpayer Advocate Service (TAS) to enhance the taxpayer experience. For more information, see IRM 25.30.2, Service Level Agreement between the IRS Independent Office of Appeals and the Taxpayer Advocate Service.

8.6.3.2
(10-06-2016)
Definition of Revenue Rulings

- (1) A revenue ruling is an official interpretation by the IRS of the tax laws, related statutes, treaties, and regulations published in the Internal Revenue Bulletin. It is the conclusion of the IRS on how the law is applied to a specific set of facts. Each Associate office within Counsel issues revenue rulings on issues under its subject matter jurisdiction.
- (2) Revenue rulings provide information and guidance for taxpayers, IRS employees, and others. They help taxpayers voluntarily comply with the tax laws and help IRS employees apply the tax laws correctly and uniformly. Revenue rulings do not have the force and effect of Treasury Regulations, but they may be used as precedents.
- (3) However, when applying revenue rulings, consider the effect of subsequent legislation, regulations, court decisions, revenue rulings, and revenue procedures. Appeals personnel are cautioned against reaching the same conclusions in other cases unless the facts and circumstances are substantially the same.

- (4) Certain issues may be under active consideration in Counsel for publication as a revenue ruling. Obtain information on the status of these issues from the Appeals Director, Operations Support (OS), by accessing the *Policy FAQs website*, selecting **new item**, and entering "Attn: Director, OS - Revenue Ruling Active Issues" in the subject line of the request.

8.6.3.3
(03-12-2025)
**Request for a Technical
Advice Memorandum
(TAM)**

- (1) Technical Advice Memorandums (TAMs) provide advice furnished by an Associate office in Counsel to an IRS field office (including Appeals) in response to a request for assistance concerning the interpretation or proper application of the tax law, tax treaties, regulations, revenue rulings or other precedents. The Office of Associate Chief Counsel publishes a TAM for a set of specific facts involving a specific taxpayer.
- (2) TAMs are submitted under Rev. Proc. 2024-2, or its successor. The IRS updates this revenue procedure annually as the second revenue procedure of the year, but the revenue procedure may also be modified or amplified during the year.

Note: Beginning in 2015, the Associate Chief Counsel (Tax Exempt and Government Entities) was delegated the authority to issue all TAMs for matters previously under the jurisdiction of the Commissioner, Tax Exempt and Government Entities. Thus, all TAM requests are submitted under Rev. Proc. 2024-2, or its successor. (TAM requests regarding issues in the employee plans area and the exempt organizations area were previously covered by Rev. Proc. 2014-5 and its predecessors.) Rev. Proc. 2015-2, section 15, reflects this procedural change.

- (3) Appeals determines whether to request a TAM on any non-docketed case under its jurisdiction. Request a TAM when a lack of uniformity exists on the disposition of the issue or the issue is unusual or complex enough to warrant consideration by Associate Chief Counsel. Because TAM requests often result in the issuance of revenue rulings or other published guidance, Appeals is responsible for bringing appropriate issues to the attention of Associate Chief Counsel through the TAM process. See Rev. Proc. 2024-2, or its successor, for further information and background on TAM request procedures. Do not request a TAM for any issue if the same issue is involved in a docketed case for any taxpayer for any taxable year. See section 4.05 of Rev. Proc. 2024-2. Instead, request legal advice from Division Counsel pursuant to the procedures in IRM 8.6.3.5, Requests for Legal Advice.

Note: If during the preliminary review of the case, it is determined there is a need for a TAM, return the case to the originating function so it may make the request. If subsequent to the preliminary review, it is determined there is a need for a TAM, submit the request as soon as possible and do not return the case to the originating function.

- (4) A taxpayer may request that an issue under Appeals' jurisdiction be referred for a TAM. However, the request may be denied if the Appeals Area Director determines the referral to Associate Chief Counsel is not warranted. If the taxpayer disagrees with the Area Director's denial of a request, the Area Director will contact PPQ&A by sending an encrypted email with a subject line of **Attn: Director, PPQ&A - Appeals - Denied TAM Request** to the Appeals TAM Coordinator at **AP TAM Coordinator*. After an analyst responds to the request, submit to the analyst by encrypted email all data on the issue for

which a TAM has been sought, including the taxpayer's written request and statements, for review. Section 5 of Rev. Proc. 2024-2, or its successor, contains detailed procedures for denial and review of a taxpayer's TAM request.

- (5) Pre-submission conferences prior to submitting a TAM request are mandatory, because they promote expeditious processing of the request. A pre-submission conference will generally include Appeals, the taxpayer, Division Counsel, and Associate Chief Counsel. Appeals must consider the following issues regarding pre-submission conferences:
- **If the request for a TAM is submitted without first holding a pre-submission conference, the Associate Chief Counsel office will return the request.**
 - Appeals should request a pre-submission conference only after determining a request for a TAM is likely.
 - Before requesting a pre-submission conference, Appeals must contact the taxpayer and afford the taxpayer an opportunity to participate in the process by permitting the taxpayer to prepare a statement in accordance with section 6.03 of Rev. Proc. 2024-2.
 - A request for a pre-submission conference must be submitted by Appeals in writing, with the assistance of Division Counsel. Division Counsel assignments for pre-submission conferences are subject to the *ex parte* rules set forth in section 1001(a)(4) of the Internal Revenue Service Restructuring and Reform Act of 1998, Pub. L. No. 105-206, and Rev. Proc. 2012-18, or its successor.
 - If the TAM request involves a coordinated or emerging issue under Appeals Domestic or International Operations or the Appeals Coordinated Issue (ACI) Program, the ATE must coordinate the request with the Appeals Domestic Operations or International Operations Technical Specialist before contacting the Division Counsel office. See section 6.04 of Rev. Proc. 2024-2, or its successor.
 - Taxpayer participation in the pre-submission conference is not required. TAM requests can proceed even if a taxpayer declines to participate in a pre-submission conference.
 - See section 6 of Rev. Proc. 2024-2, or its successor, for more details on pre-submission conferences.
- (6) Request a TAM at the earliest possible stage of the proceedings. However, the lack of timeliness is not a reason for denying a request.
- (7) Appeals and Division Counsel have the following responsibilities when making the TAM request:
- a. Appeals must prepare Form 4463, Request for Technical Advice Memorandum, and provide it in electronic format to the Division Counsel attorney with whom the TAM request was coordinated. Use the most recent form found on the Publishing website. Form 4463 must include the mailing address of the Appeals Area Director to whom the Associate Chief Counsel office should mail a copy of its reply to the TAM request.
 - b. The Division Counsel attorney will submit the TAM and any supporting documentation to Associate Chief Counsel via the email address provided in section 7.07 of Rev. Proc. 2024-2, or its successor. If supporting documentation is not available in electronic format, the attorney will submit it to by fax or by express mail or private delivery service to the fax number or mailing address, respectively, provided in section 7.08 of the revenue procedure.

- c. Appeals must submit a paper copy of the TAM request to the address below, as required by section 7.08 of Rev. Proc. 2024-2, or its successor:
Internal Revenue Service
Attn: CC:PA:LPD:TSS, Room 5336
1111 Constitution Avenue, NW
Washington, DC 20224
 - d. The Appeals office that submitted the TAM request must also advise Policy that a request has been submitted by sending a copy of the TAM request by encrypted email to the Appeals TAM Coordinator mailbox at **AP TAM Coordinator*. The Appeals office should **not** send a paper copy of the request to Policy.
- (8) Associate Chief Counsel will mail its reply to the TAM request to the Appeals Area Director indicated on Form 4463. It will also send an electronic copy by encrypted email to the Appeals TAM Coordinator mailbox at **AP TAM Coordinator*.
 - (9) If Appeals believes the TAM contains specific errors in its analysis or conclusions, it must submit a written request for reconsideration. Before requesting reconsideration, consult with Division Counsel. See section 10.07 of Rev. Proc. 2024-2, or its successor, for more details.
 - (10) After a TAM is issued to the taxpayer, Appeals is bound by the TAM's conclusions if they are favorable to the taxpayer. When a TAM is unfavorable to the taxpayer, Appeals may generally settle the issue under existing settlement authority. However, see IRM 8.6.3.4, Procedures If Appeals Conclusion is Contrary to Service Position, for specific procedures to follow when considering a conclusion contrary to a TAM, and for restrictions on taking positions contrary to TAMs related to employee plans and exempt organizations.
 - (11) The holdings in a TAM, whether favorable or unfavorable, are generally applied retroactively. In rare and unusual circumstances, the Associate Chief Counsel with jurisdiction over the TAM may exercise discretionary authority under IRC 7805(b) to limit the retroactive effect of the TAM's holding. See sections 13.01 and 14 of Rev. Proc. 2024-2, or its successor.

8.6.3.4
(10-06-2016)
**Procedures If Appeals
Conclusion is Contrary
to Service Position**

- (1) For purposes of this section, the term "Service position" means the conclusion on an issue as expressed in a revenue ruling, a TAM issued to the taxpayer under consideration, or other guidance that falls within the meaning of a "letter ruling" in Rev. Proc. 2024-1, or its successor.
- (2) When the Service position is favorable to the taxpayer, Appeals follows it. Generally, if the Service position is adverse to the taxpayer, Appeals may partially or fully concede the issue based on the litigating hazards. However, the following are exceptions and additional considerations Appeals must take into account when recommending partial or full concessions adverse to a Service position:
 - Appeals will not partially or fully concede an issue in a case where the Associate Chief Counsel office has issued a decision with regard to an issue that a court reviews using an abuse-of-discretion standard (for example, the denial of non-automatic change of accounting method requests (requested on Form 3115)). See IRM 8.6.3.11, Change in Accounting Practice or Method.

- When full concession of an issue is recommended without offsetting concession, and is contrary to a Service position, Appeals must request and consider the views of the appropriate Associate Chief Counsel office function.
 - Appeals must coordinate consideration of the issues listed in CCDM Exhibit 31.1.1-1, Issues Requiring Associate Office Review, of the Chief Counsel Directives Manual (CCDM) with the Associate Chief Counsel office.
 - If the taxpayer's facts are distinguishable from the facts upon which the Service based its position, Appeals does not have to obtain the views of the Associate Chief Counsel. Generally, this statement applies to a revenue ruling, private letter ruling, or other Service position that was not issued directly to the taxpayer with regard to the year at issue.
 - Appeals will not settle an issue contrary to a letter ruling or TAM concerning an employee plan's status or qualification, an organization's exempt status, or an organization's foundation classification. If Appeals proposes a contrary disposition to such a letter ruling or TAM, it must do so as a request for a new TAM. See section 12.01 of Rev. Proc. 2024-2, or its successor.
- (3) Requests for the Associate Chief Counsel office's views required in (2), above, are made through the Chief, Appeals. The Appeals office making the request must submit the request by accessing the *Policy FAQs website*, selecting **new item**, and entering a subject line of "Attn: Director, OS - Concession of Issue Contrary to Service Position". After an analyst responds to the request, send an email in memorandum format to the analyst and attach a copy of the proposed Appeals Case Memorandum (ACM) to the email, which states the issue, facts, law, and contemplated action. If a case involves so many issues that writing a proposed ACM would unduly delay the notification, attach a statement limited to the issue on which the Appeals conclusion is contrary to a Service position. The statement must include the facts, issue, law, and proposed action.
- (4) The Chief, Appeals, solicits the views of the Associate Chief Counsel office that issued the Service position ("issuing office") and transmits those views to the requesting Appeals office. After considering the views of the issuing office, close the case. If the views of the issuing office are not followed, the requesting office must email the final supporting statement stating the reasons why the issuing office's views are not being followed to the same analyst referenced in paragraph (3), above, with "Attn: Director, OS - Concession of Issue Contrary to Service Position" in the subject line. The Chief, Appeals, will forward the final supporting statement to the issuing office.

8.6.3.5
(10-06-2016)
**Requests for Legal
Advice**

- (1) The term "legal advice," as used in this section, means the advice, comments, or views of a component of Counsel on substantive questions regarding the interpretation of the Internal Revenue Code, regulations, revenue rulings, revenue procedures, and court decisions. Counsel furnishes legal advice to assist IRS personnel, including Appeals personnel, to establish and maintain consistent positions in the settlement of cases.
- (2) Request legal advice from an Associate Chief Counsel office on novel or significant issues within that office's subject matter jurisdiction. A request for legal advice is not used when the procedures for requesting technical advice in IRM 8.6.3.3, Request for a Technical Advice Memorandum (TAM), apply.

- (3) Legal advice is advisory. Counsel furnishes legal advice to assist in the evaluation of the settlement potential of the case in relation to the litigating hazards involved. Appeals does not cite legal advice as the basis for closing a case and does not furnish copies of legal advice to taxpayers or their representatives.

- (4) Appeals may withdraw requests for legal advice.

8.6.3.5.1 (10-06-2016) Procedures for Requesting Legal Advice

- (1) The Appeals Area Director submits requests for legal advice from an Associate Chief Counsel office by sending an encrypted email with a subject line of **Attn: Request for Legal Advice** to **AP Request for Legal Advice*. After an analyst responds to the request, send an email in memorandum format to the analyst, which includes the items listed in paragraph (2), below.
- (2) The electronic request for legal advice must include the following information (either in the body of the email or as attachments):
 - a. a complete statement of all facts relating to the issue;
 - b. a detailed description and analysis of the issue, citing the pertinent authorities (facts and legal discussion should be included in the request, not merely incorporated by reference);
 - c. copies of any material that pertains to the issue; and
 - d. a full and precise statement of the reasons why Associate Chief Counsel consideration is requested.
- (3) Upon receipt of the request for legal advice, the Director, OS, determines whether the request is appropriate. If the request is appropriate, the Director, OS, refers it to the appropriate Associate Chief Counsel office. If the request is inappropriate or not fully developed, the Director, OS, returns the request to the Area Director. Some examples of inappropriate requests are as follows:
 - Requests involving factual determinations where uniformity and consistency are not involved.
 - The issue is not sufficiently widespread to warrant consideration by the Associate Chief Counsel office.
 - A revenue ruling or acquiescence already covers the situation and there is no reason to believe that such revenue ruling or acquiescence will be revoked or modified.
 - The case is not docketed and it concerns an issue for which a TAM is appropriate.
- (4) The Associate Chief Counsel office addresses and furnishes the legal advice to the Chief, Appeals. The Director, OS, forwards the legal advice to the requesting Appeals office through the Area Director.

8.6.3.6 (10-06-2016) Requests for Legal Opinion

- (1) If an Appeals office requires a legal opinion in a case, either docketed or non-docketed, concerning the application of settled principles of law to a specific set of facts, contact the Division Counsel office. Opinions may be secured for the following items:
 - Meaning, or force and effect of legal terms in a contract
 - Enforceability of a contract
 - Application of state law to a contract
 - Corporate existence of transferee
 - Similar questions

- (2) A direct request for a legal opinion by an Appeals office to an Associate Chief Counsel office is not appropriate. Division Counsel determines whether the request concerns a matter that should be referred to an Associate Chief Counsel office.

8.6.3.7
(10-06-2016)

**Assistance from the
Deputy Commissioner
(International)**

- (1) IRM 4.60.1.2, Specific Exchange of Information (EOIR) Program, provides the procedures for obtaining tax-related information located in a foreign jurisdiction.

8.6.3.8
(10-06-2016)

**Economist Assistance in
IRC 482 Cases**

- (1) To supplement the legal and accounting skills of ATEs and assist them in properly evaluating the economics underlying many of the issues they may encounter, particularly those in international transfer pricing issue cases, Appeals has economists available to assist with issue resolution. See IRM 1.4.28.10, Referrals to Appeals Technical Guidance, International Operations, and TE/GE, for a general guide for requesting assistance from an economist.

8.6.3.9
(10-06-2016)

Actions on Decisions

- (1) Chief Counsel prepares and publishes Actions on Decisions to represent the Service's litigating posture on controversial issues in a specific case and provide the legal basis for the Service's position on those issues. See IRM 8.6.4.2.7, Case Evaluation for Settlement Purposes, for information concerning Actions on Decisions.

8.6.3.10
(10-06-2016)

**Cases Requiring
Actuarial Assistance**

- (1) This section describes case coordination with the office of Employee Plans Technical (EP Technical) in cases requiring actuarial assistance.
- (2) The Office of the Deputy Commissioner, Tax Exempt and Government Entities (TE/GE), has the responsibility for providing actuarial assistance to all Service components. It provides such assistance through EP Technical, which is an office within the Employee Plans Rulings and Agreements division. See IRM 7.1.6.5.4, Actuarial Assistance, for information on formally requesting assistance from EP Technical.
- (3) Assistance is provided in response to actuarial questions relating to the following issues:
 - Tax treatment of pension, profit-sharing, stock bonus, annuity, life or accident insurance and health plans.
 - Tax treatment of other benefit and compensation plans and contracts.
 - Taxation of life insurance companies.
 - Determination of unstated interest on certain deferred payments.
 - Valuation of life estates, remainder interests, contingent assurance, series of payments, and actuarial interests in trusts.
- (4) EP Technical also furnishes assistance in these areas to Counsel and the Justice Department (through Counsel) in the development and presentation of actuarial issues for trial or pre-trial settlement. Such assistance may include securing or providing expert witnesses for cases in litigation.
- (5) Requests for actuarial assistance may be submitted as a request for technical advice, following the procedures contained in IRM 8.6.3.3, Request for a Technical Advice Memorandum (TAM), and Rev. Proc. 2024-2. Such requests

may also be made as a request for legal advice, following the procedures in IRM 8.6.3.5, Requests for Legal Advice.

Note: Beginning in 2015, the Associate Chief Counsel (TE/GE) was delegated the authority to issue all TAMs for matters previously under the jurisdiction of the Commissioner, TE/GE. This delegation of authority includes TAMs regarding actuarial issues.

8.6.3.11
(10-06-2016)
**Change in Accounting
Practice or Method**

- (1) A taxpayer may request, using Form 3115, Application for Change in Accounting Method, to change its method of accounting even if the method to be changed is an issue under consideration by an Appeals office. This provision is effective for taxable years ending on or after December 31, 2001. See section 2.03(2)(b) of Rev. Proc. 2002-19. The request does not affect full consideration of the pending issue in Appeals because the taxpayer's method change is without audit protection. See sections 3.08(2) and 8.02(7) of Rev. Proc. 2015-13, or its successor.
- (2) In general, taxpayers may not request, or otherwise make, a retroactive change in accounting method. See section 2.05 of Rev. Proc. 2015-13. The applicable revenue procedure is the revenue procedure in effect at the time the request was submitted. For Forms 3115 filed on or after January 16, 2015, for a tax year of change ending on or after May 31, 2014, Rev. Proc. 2015-13 provides the procedures under which taxpayers may obtain either automatic consent or advance (non-automatic) consent of the Commissioner to change a method of accounting. In prior years, the procedures for automatic consent and advance (non-automatic) consent were separated into two revenue procedures, with the following effective dates:

Automatic consent applications:

- Rev. Proc. 2011-14, (Forms 3115 filed on or after January 10, 2011, for tax years ending on or after April 30, 2010)
- Rev. Proc. 2008-52, (Forms 3115 filed on or after August 18, 2008, for tax years ending on or after December 31, 2007)
- Rev. Proc. 2002-9, (Forms 3115 filed on or after December 31, 2001, for tax years ending on or after January 7, 2002)
- Rev. Proc. 99-49, (Forms 3115 filed on or after December 27, 1999, for tax years ending on or after December 27, 1999)

Advance (non-automatic) consent applications:

- Rev. Proc. 97-27, (Forms 3115 filed on or after May 15, 1997)
- Rev. Proc. 92-20, (Forms 3115 filed on or after March 23, 1992)

Note: The revenue procedures listed above are subject to being modified, amplified, clarified, or superseded by subsequent revenue procedures, each with their own effective dates.

- (3) In a case where the taxpayer has challenged the National Office's denial of a requested advance (non-automatic) consent accounting method change made on Form 3115, the court will review the taxpayer's challenge under an abuse-of-discretion standard. See IRM 8.6.3.4, Procedures If Appeals Conclusion is Contrary to Service Position. Thus, Appeals will not settle any case contrary to the National Office's decision to deny the method change, nor will it give

weight to any hazards of litigation based upon the possibility of a reversal of the denial in a court proceeding.

- (4) The IRS may impose changes to the taxpayer's accounting method, as provided in IRC 446(b). See also 26 CFR 1.446-1(b) and Rev. Proc. 2002-18. An ATE may resolve an accounting method issue by offering terms and conditions that differ from those ordinarily applicable to a Service-imposed accounting method change to appropriately reflect hazards of litigation.

Example: An ATE may compromise the year of change (for example, by agreeing to a later year of change) to reflect hazards of litigation. However, the ATE may only compromise the year of change to a taxable year finalizing the change that is currently before Appeals. See Rev. Proc. 2002-18, sections 1.03 and 6.02(c)(i), and IRM 1.2.2.9.3, Delegation Order 8-3 (formerly DO-97, Rev. 34), Closing Agreements Concerning Internal Revenue Tax Liability.

- (5) To implement a Service-imposed change in method of accounting, secure a closing agreement under IRC 7121. To resolve an accounting method issue raised by the IRS on a non-accounting-method change basis, execute a closing agreement under IRC 7121. See IRM 8.13.1, Processing Closing Agreements in Appeals, and Rev. Proc. 2002-18.
- (6) When resolving an accounting method issue as an accounting method change, Appeals must provide notice to the taxpayer that resolution of the issue is being treated as an accounting method change unless such notice was provided by the examining agent. The notice must be in writing, and this requirement is satisfied if a closing agreement is executed finalizing the change. The resolution of an accounting method issue does not establish a new method of accounting if the IRS does not provide such notice. See section 7 of Rev. Proc. 2002-18.

8.6.3.12
(10-06-2016)
**Extension of Time for
Making Certain Elections**

- (1) 26 CFR 301.9100-1 provides that the Commissioner may grant a reasonable extension of the time fixed by regulations for making elections or applications for relief.
- (2) An election made pursuant to 26 CFR 301.9100-2 for an automatic extension of time is not a letter ruling request and does not require payment of a user fee under Rev. Proc. 2024-1, or its successor.
- (3) A request for an extension of time for making an election or other application for relief under 26 CFR 301.9100-3 is not submitted as a request for a TAM; instead, the request is submitted as a letter ruling request even if the request is submitted after the examination of the taxpayer's return has begun or after the issues in the return are being considered in Appeals or a federal court. Therefore, a section 301.9100-3 request should be submitted pursuant to Rev. Proc. 2024-1, or its successor, including the payment of the applicable user fee listed in Appendix A of Rev. Proc. 2024-1. Also see IRM 1.2.2.16.3, Delegation Order 30-3 (formerly DO-183, Rev. 8), Extension of Time for Making Certain Elections, which does not delegate authority to grant relief under section 301.9100-3 to Appeals.
- (4) In a case where the taxpayer has challenged the National Office's adverse letter ruling issued under 26 CFR 301.9100-3, Appeals will not settle any case contrary to the National Office's decision to deny the extension request, nor will

it give weight to any hazards of litigation based upon the possibility of a reversal of the adverse ruling in a court proceeding.

