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**From:**

**Sent:** Wednesday, July 24, 2013 11:09:01 AM

**To:**

**Cc:**

**Subject:** FW: TAM procedures

Hello

You have asked me to clarify the TAM procedures. The facts of your case are as follows: Appeals requested a TAM. The taxpayer, Appeals, and Exam all participated in a pre-submission conference. Your division proposes an adverse TAM. The taxpayer will request a conference of right if the Associate Office proposes to provide an adverse TAM. You have asked us to clarify whether the taxpayer is entitled to a conference of right and the general application of Section 9 of Rev. Proc. 2013-2. Specifically, you asked the following questions:

- (1) Is the taxpayer entitled to a conference of right if the taxpayer participated in a pre-submission conference?
- (2) Who informs the taxpayer of the proposed adverse TAM?
- (3) Should the Associate Office provide the taxpayer with a copy of the proposed TAM before the conference?
- (4) Who attends the conference? And,
- (5) Does the taxpayer have the right to withdraw the request for a TAM?

Under your facts, the taxpayer is entitled to a conference of right to discuss the proposed adverse TAM. A pre-submission conference differs from a conference of right. Under Section 6 of the Rev Proc, pre-submission conferences are mandatory. The purposes of that conference is to provide information and to determine the appropriate scope of the TAM. Section 9 of the Rev Proc, however, applies to situations in which the Associate Office proposes an adverse TAM. Pursuant to Section 9, the taxpayer is afforded a conference to discuss the decision as a matter of right, unless the taxpayer waives that right. Participating in a mandatory pre-submission conference neither waives the taxpayer's right to a conference of right, nor does it substitute for such a conference. Here, the taxpayer did not waived his conference of right and, thus, should be afforded the opportunity to participate in a conference to discuss the proposed adverse TAM.

If the TAM is adverse, the Associate Office should inform the taxpayer and schedule the conference. See section 9.01. The Associate Office also informs the requesting office of the scheduled conference and provides that office with the opportunity to participate in the conference. Section 9.02. Unless the taxpayer requests an extension, the conference must occur within 10 days after the taxpayer is informed of the proposed adverse TAM. Section 9.02 and 9.03. You should not provide a copy of the proposed adverse TAM to the taxpayer before the conference. See Section 9.08. The taxpayer is notified of the proposed adverse TAM to allow the taxpayer an opportunity to provide information, documents, and arguments in writing before the conference. Section 9.06.

Once a TAM request is formally submitted, the taxpayer cannot withdraw the request. Only the Director may withdraw a request for a TAM. See Section 11.01.

Please let me know if you have any further questions.