

IRS Internal Revenue Manual Part 4. Examining Process, Chapter 51. LMSB Examinations, Section 1. Rules of Engagement

Part 4. Examining Process

Chapter 51. LMSB Examinations

Section 1. Rules of Engagement

4.51.1 Rules of Engagement

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4.51.1.1 (04-01-2007)

Applicability: Case Interactions by LMSB Executives, Senior Leaders, Team Managers, Technical Advisors, and Field Specialist Leaders

1. The Rules of Engagement are intended to provide guidance in situations where:

A. An LMSB Executive or Senior Leader could be involved with a taxpayer or a group of taxpayers (corporations and partnerships with partnerships with over \$10,000,000 in assets) in a pre/post filing activity.

B. An LMSB Executive, Senior Leader, Team Manager, Technical Advisor, Field Specialist Leader could be involved when industry aligned cases are not under the line authority of the Industry Director.

4.51.1.2 (04-01-2007)

Purpose

1. For case interactions described in 4.51.1.1, the Rules of Engagement are intended to:

A. Clarify individual roles, responsibilities and lines of authority to
1. Help ensure end-to-end accountability, and

2. Provide clear procedural guidance on how to manage tax case interactions;

B. Facilitate getting to the right answer for a particular case or issue;

C. Promote consistent tax treatment between similarly situated taxpayers or cases; and

D. Reinforce the importance of integrity and ethical behavior in all case-related decision making.

4.51.1.3 (04-01-2007)

Definitions

1.

Case	A taxpayer or a group of taxpayers
<i>Case Interaction</i>	A case-related positive contact to achieve a shared outcome. Such interactions may occur at any phase of post-filing, the filing of tax return, through the examination/processing phase, to the collection phase. In addition, case interactions may occur in pre-filing (e.g., Industry Issue Resolution, Pre-Filing Agreement, and Advanced Pricing Agreement).
Director of Field Operations	For purposes of this IRM, the title, <i>director field operations</i> is assumed to include <i>deputy director, field specialists</i> .
<i>Industry Director</i>	For purposes of this IRM, the title, industry director is assumed to include director, field specialists
Issue Owner Executive	Any LMSB director (or delegate) with designated authority to oversee and resolve specific tax issues.
Line Authority Executive	An industry director (or delegate) with direct chain-of-command responsibility for personnel working on a given tax case.
Team	A tax examination team. The team includes all LMSB personnel required to review, evaluate, adjust and approve a tax case. The team's makeup is flexible and may consist of a few members or many members, depending on the nature and complexity of the issues and/or case to be examined. A team may include examiners, managers, senior managers, specialists, counsel, and others.
Tier I - Issues of High Strategic Importance	Tier I issues are tax issues of high strategic importance to LMSB which have significant impact on one or more Industries. Tier I issues could areas involving a large number of taxpayers, significant dollar risk, substantial compliance risk or high visibility, where are established legal positions

	and/or LMSB direction. Tier I issues require oversight and control by an issue Owner Executive. The Issue Owner Executive is responsible for ensuring that the issue is identified, developed and resolved in a consistent manner across all LMSB cases involving similarly situated taxpayers. The disposition or resolution of the issue must be in accordance with that Executive's guidance. The LMSB Compliance Strategy Council will designate Tier I issues.
Tier II - Issues of Significant Compliance Risk	Tier II issues are those involving areas of potential high non-compliance and/or significant compliance risk to LMSB or and Industry. Tier II includes emerging issues, where the law is fairly well established, but there is a need for further development, clarification, direction and guidance on LMSB's position. Tier II issues require coordination with the Issue Owner Executive. The Executive is responsible for ensuring the disposition or resolution of issues, so as not to hinder LMSB's broader direction and/or guidance. The LMSB Compliance Strategy Council will designate Tier II issues.
Tier III - Issues of Industry Importance	Tier III issues typically are industry-related, and have been identified as issues that should be considered by LMSB teams when conducting their risk analyses. Teams selecting Tier III issues for examination should use available direction, guidance and/or Audit Technique Guidelines in the development and resolution of the issue to ensure consistency throughout LMSB. LMSB Industries, working in conjunction with other examiners, technical advisors and specialists, will identify Tier III issues.

4.51.1.4 (04-01-2007)

Roles and Responsibilities

1. Roles vary across the different levels of LMSB leadership, reflecting the distribution of strategic and tactical responsibilities. Understanding roles is important when considering how to achieve consistent treatment of cases not under line authority. (See Figures 4.51.1-1 and 4.51.1-2)

Figure 4.51.1-1

Differentiated Roles of LMSB Leaders

Team Manager	Technical Advisor	Specialist Leadership
Identify emerging issues and provide support to develop them	Determine cases under audit	Mentor and coach specialist at all levels
Communicate industry and emerging issues to	Notify Industry Director of significant cases	Promote issue resolution at case level

team		
Provide updated industry and emerging issues to team	Communicate with CIC and IC agents regardless of industry alignment	Identify and communicate with Industry Leadership on possible emerging issues and provide support to develop them
Identify industry and emerging issues in the audit plan	Provide teams with timely updated information	Ensure that field team and specialists operate as a team
Ensure review of Technical Advisor Web site	Maintain mailing list for employees working industry and emerging issues	Help identify and develop best practices
Contact Technical Advisor in early stages of audit process	Contact teams with industry and emerging issues	Support resource allocation decisions with respect to compliance strategy
Discuss with Territory Manager industry and emerging issues	Provide value added input to team	Ensure specialists receive industry training as it relates to case assignments
Ensure examiners receive industry-related training	Develop and maintain auditing guidelines and techniques	Promote and ensure Issue Management Strategy implementation
Communicate with taxpayer on industry and emerging issues and provide support	Communicate with the team in the early stages of audit	Contact point for external specialist associations
	Be part of the team and ensure timely resolution of issue	Assist team leadership as appropriate in resolution of significant issues
	Ensure that Tier I and Tier II issue are identified, coordinated and properly developed in accordance with guidance from Issue Owner Executive(s).	Secure expertise outside field team and beyond territory
	Work with Issue Owner Executive(s) and Line Authority Executive(s) as necessary to reinforce consistent treatment of similarly situated	•Facilitate positive relationship with taxpayer

	taxpayers with respect to specific issues.	
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Figure 4.51.1-2

Differentiated Roles of LMSB Leaders

Territory Manager	Director Field Operations	Industry Director	Commissioner/Deputy
Mentor and coach at all levels, with immediate focus on Team Manager and field team	Mentor and coach at all levels, with immediate focus on Territory Manager, Team Manager and field team	LMSB industry directors are responsible and accountable for ensuring appropriate application and administration of the Rules of Engagement in case interactions within their Industries.	Mentor and coach LMSB employees at all levels
Promote issue resolution at case level	Push decisions down to level closest to the facts	Mentor and coach at all levels, with immediate focus on DFOs and Territory Managers	Refer issues to Industry Directors and below as appropriate
Monitor progress	Identify/champion emerging issues on first case where issue appears	Push issues down to level closest to the facts	Work with Chief Counsel to carry issues to Treasury
Identify possible emerging issues and provide support to develop them	Mediate within team on impasses on issues or processes	Execute pre-filing agreement process responsibilities	Resolve impasses within LMSB
Ensure that field team operates as a unit	Identify/promote best practices	Assist in resolving cross-industry issues	Showcase best practices
Facilitate team and taxpayer planning issue development and	Secure expertise outside field team and beyond territory	Mediate unresolved issues within own industry	Champion Issue Management Strategy

resolution			
Secure expertise outside field team	Promote and ensure implementation of Issue Management Strategy	Work with Industry Analysts to develop industry practices based on cases	Support compliance resource strategy allocation across and outside LMSB
Facilitate positive relationship with taxpayer	Facilitate resource reallocation consistent with compliance strategy	Promote best practices specific to own industry	
Help identify and develop best practices and ensure that Team Manager implements them	Communicate industry and emerging issues with other Directors, Field Operations	Help determine impact on emerging issue with other Industry Directors and Counsel	
Ensure implementation of Issue Management Strategy	Communicate industry and emerging issues with Industry Director	Champion Issue Management Strategy	
Ensure that resources are deployed consistent with LMSB compliance strategy		Support resource allocation decisions with respect to compliance strategy	
Communicate industry and emerging issues with the team manager and team			
Communicate with team manager and team to ensure consistent treatment			

Provide updated industry and emerging issues to team manager and team			
Review audit plan to ensure industry issues are addressed by team			
Communicate with Manager, Technical Advisor or Industry on emerging issues			
Communicate with Specialist Leadership on emerging issues			
Serve as contact person for external stakeholders			

4.51.1.5 (04-01-2007)

Elevating Case Interactions Within Industries

1. Case interactions can be triggered by teams or by leaders for a variety of reasons. In most instances, a team invites interaction from senior leaders in response to particular needs. In other instances, a leader may proactively become involved after identifying the need for interaction or uncovering a situational opportunity that warrants involvement.

4.51.1.5.1 (04-01-2007)

Criteria for Elevating Case Interactions Within an Industry

1. Teams may identify a need to invite senior leader or executive interaction. Typical reasons include:

A. Questions regarding availability of team resources; ability of the team to handle or resolve a particular issue or situation; team/manager experience levels; competing resource demands; and scheduling concerns resulting from taxpayer's untimely furnishing of documents

B. Disputes within teams; disputes between teams and taxpayers, difficulties dealing with contentious taxpayers; taxpayer requests for senior leader or

executive interactions; or taxpayer's need to elevate issues or discussions within its own organization

C. Potential impact or visibility of an issue; potential for precedent-setting and/or concerns about undermining the tax system; need to coordinate issues across LMSB; lack of published guidance on a particular issue; the need for strategic industry input or assistance; need to ensure consistent industry treatment of issues; resolution that requires additional technical and/or procedural guidance or support; and emerging industry/specialist needs.

2. Senior leaders or executives may determine a need for interaction. Typical reasons include:

A. Requests from team leaders or taxpayers; involvement of new taxpayers; need to improve service to taxpayers; Trade Association or Industry group contact; or for other "relationship management" purposes.

B. Increase understanding of particular cases / issues; ensure consistent industry treatment; propagate best practices; introduce new initiatives; instill the values of and apply Issues Management Strategy.

4.51.1.5.2 (04-01-2007)

Protocol for Case Interactions Within an Industry

1. The within-industry process for elevating case interactions to include senior leaders or executives is intended to ensure continued team involvement and decision-making at the level closest to the facts. In general, before interacting in a particular case-related issue, a senior leader or executive will attempt to verify that other leaders closer to the facts have been fully engaged in trying to resolve the particular situation or issue; and that such elevated case interactions are warranted.

4.51.1.6 (04-01-2007)

Elevating Case Interactions Across Industries

1. The need for across-industry case interactions typically arises when a team aligned within one particular LMSB Industry is examining a taxpayer affiliated with a different Industry. The exam team may request support or guidance from an Issue Owner Executive relative to the interpretation or treatment of a particular issue within the taxpayer's industry. Similarly, an Issue Owner Executive may proactively become involved in order to ensure that LMSB treats all similarly situated taxpayers in a fair and consistent manner. The Line Authority Executive will work with the Issue Owner Executive to ensure that access is granted to Tier I and II cases for the above purpose.

4.51.1.6.1 (04-01-2007)

Criteria for Elevating Case Interactions Across Industries

1. Teams, senior leaders or executives may determine that the need exists to elevate case interactions across industries. Such cross industry interactions might be appropriate when it is determined that a case is not aligned with the proper industry; the case consists of clear industry-specific issues that require guidance or leadership from Issue Owner Executive; potential exists for the case to be designated as a litigating vehicle; the impact of an issue on a particular industry

is significant; the potential for setting precedent within the industry exists; and the issue has high visibility with an industry group.

4.51.1.6.2 (04-01-2007)

Protocol for Managing Case Interactions Across Industries

1. Interactions across industries should be managed carefully; following this protocol is critical to ensure the benefits of industry alignment and consistent issue treatment.

2. To ensure consistent treatment of identified industry issues, the Line Authority Industry Executive controls the case while the Issue Owner Executive controls and/or influences the identification, development and resolution of the specific industry issue.

A. It is essential that all parties involved interact in a collaborative manner ensuring:

- Involvement of executives adds value and builds trust
- There is fairness and consistency in tax administration

3. Issue Owner Executives will have access to significant industry aligned cases regardless of geographic location or assigned industry.

A. Issue Owner Executive (ID/DFO or delegate) will contact and coordinate with the Line Authority Executive to secure briefing from the team, contact and/or visit team, exchange information, and provide assistance and guidance on specific industry issues.

B. The Issue Owner Executive will be sensitive to established line authority relationships as they provide guidance and direction on specific Industry issues(s).

4. On Strategic/Significant Industry (Tier I) issues, Issue Owner Executives will retain nationwide jurisdiction including issue resolution.

A. The Compliance Strategy Council will approve Tier I issues per IRM 4.51.5.

5. On significant Compliance Risk (Tier II) issues, the Line Authority Executive will coordinate on issue resolution with the Issue Owner Executive. If agreement cannot be reached as to the ultimate disposition of an issue, it will be elevated to the next higher level of management.

A. The Compliance Strategy Council will approve Tier II issues per IRM 4.51.5.

6. On Industry (Tier III) issues, LMSB teams will familiarize themselves with industry issues through contacting Technical Advisors and/or obtaining information from Industry and PFTG websites. The Line Authority Industry Executive retains unilateral decision making authority including ultimate disposition and resolution.

4.51.1.6.3 (04-01-2007)

Guidelines for Taxpayers When Across-Industry Contact Is Necessary

1. Taxpayers and teams should observe the following guidelines when taxpayers are seeking interaction with an Issue Owner Executive.

A. Case related contacts should be made at the team level.

B. Industry issue contacts should be made for strategic issues or assistance directly to the specific industry director.

C. If the level of contact is unclear, taxpayer should rely on any IRS contact to determine the appropriate industry and level of contact, following the rules of interaction.

D. While cross-industry involvement of all appropriate team members should result in resolutions, taxpayers can elevate unresolved issues to the next level of interaction.

E. Taxpayers may elevate unresolved industry-related issues through the Line Authority Executive to the Issue Owner Executive.

F. Taxpayers may directly request industry aligned involvement and any disputes will be resolved through industry protocol.

G. Field agents and teams are expected to recognize elevation is part of the audit process.