

N(35)000-158

October 1, 1998

Field Responsibility for Providing
Specific Information with Requests

Subject: For Chief Counsel Advice

Cancellation Date: March 30, 1999

The purpose of this Notice is to apprise all District and Regional Counsel attorneys and managers of their responsibilities to provide specific information with requests for Chief Counsel Advice. This information is required to ensure compliance with the new Chief Counsel Advice provisions of the Restructuring and Reform Act of 1998 (the Act).

Section 3509 of the Act amends I.R.C. § 6110 by adding "Chief Counsel Advice" (CCA) to the definition of written determinations open to public inspection. New subsection (i) of section 6110 defines CCA to mean:

written advice or instruction, under whatever name or designation, prepared by any national office component of the Office of Chief Counsel which—

(i) is issued to field or service center employees of the Service or regional or district employees of the Office of Chief Counsel, and

(ii) conveys—

(I) any legal interpretation of a revenue provision,

(II) any Internal Revenue Service or Office of Chief Counsel position or policy concerning a revenue provision, or

(III) any legal interpretation of State law, foreign law, or other Federal law relating to the assessment or collection of any liability under a revenue provision.

The scope of the definition of CCA includes both taxpayer specific and nontaxpayer specific advice. It includes, but is not limited to, Field Service Advice, Technical Assistance memoranda, Service Center Advice, Litigation Guideline Memoranda and Advisory Opinions from any National Office component of the Office of Chief Counsel to the field pertaining to revenue provisions. A National Office component of the Office of Chief Counsel includes the Field Service Division or any of the technical divisions within the Office of the Associate Chief Counsel (Domestic), the Office of the Associate Chief

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Counsel (Enforcement Litigation), the Office of the Associate Chief Counsel (EBEO), the Office of the Associate Chief Counsel (International) and the Office of the Associate Chief Counsel (F&M) or any successor offices to these offices that may result from any reorganization.

In accordance with these new provisions, CCA will be redacted prior to public release in a manner similar to that provided for private letter rulings and technical advice memoranda. Section 6110(i)(4)(B) gives taxpayers, who are the subject of taxpayer specific CCA, the opportunity to participate in the redaction process, as it relates to taxpayer information. The Act requires the Service to mail a notice of intention to disclose the CCA to the taxpayer within 60 days after issuance of the CCA. The Notice must include a copy of the CCA on which the information that the Service proposes to delete is indicated.

Information that may be deleted includes names, addresses and other identifying details about the person to whom the CCA pertains and any other person identified in the CCA. The Service may also delete information protected from disclosure under 5 U.S.C. § 552 (b) and (c) (the Freedom of Information Act). This includes information compiled for law enforcement purposes if the release of the information could reasonably be expected to interfere with enforcement proceedings, would constitute an unwarranted invasion of privacy, could reasonably be expected to disclose the identity of a confidential source, would disclose law enforcement techniques or procedures if such disclosure could reasonably be expected to risk circumvention of the law, etc.

In order to make proper deletions, and to process the deletions in coordination with the taxpayer, the National Office needs certain information which has not previously been required or submitted in requests for advice. Therefore, Field attorneys who request taxpayer specific CCA must now include in the request with respect to the taxpayer who is the subject of the request:

1. The taxpayers' full name,
2. The taxpayer's latest mailing address,
3. The taxpayer's taxpayer identification number (TIN),
4. If a taxpayer has a representative who has a power of attorney to represent the taxpayer in the matter that is the subject of the request, the name and address of the representative,
5. Field attorneys should specify any information in the request, or the "background file" documents submitted with the request, that they believe should not be released.

