

[ N(30)000-310 ]

March 2, 1998

Chief Counsel Instructions

**Subject:** for Problem Solving Day      **Cancellation Date:** After Reading

**I. Purpose:** The purpose of this notice is: (1) to emphasize the importance of Counsel participation in the Service's Problem Solving Days; (2) to set out the role of Counsel (and various Chief Counsel components) in Problem Solving Day activities; and (3) to summarize the administrative procedures for capturing information for the program.

**II. Role of Counsel:** The Internal Revenue Service has initiated Problem Solving Day (PSD) activities as a way to reach out to taxpayers who have unresolved problems regarding the determination or collection of their tax liabilities. These efforts enhance taxpayer service and improve our image as a service organization. Chief Counsel is committed to supporting this important program.

Recent experience has shown that the assistance of the Office of Chief Counsel is invaluable to the Service as it conducts PSD's. Accordingly, District and Regional Counsel should continue to give PSD a high priority. District Counsel should be personally involved in coordinating assistance to their District Directors for PSD and, if practical, as ultimately determined by the Regional Counsel, should provide on-site support.

PSD services are generally available to taxpayers on both a walk-in and an appointment basis. District Counsel may be asked to provide legal advice to the IRS and assist by explaining to taxpayers laws, regulations, practices and procedures. Attorneys also may be asked to assist in negotiations and mediations with taxpayers. If a taxpayer is presently involved in litigation, District Counsel's experience in sorting out these matters will be invaluable. If for instance the matter is outside Service/Counsel jurisdiction and is pending with the Department of Justice, Counsel may be asked to facilitate a contact with a Department of Justice attorney in a way that is helpful to the taxpayer. Counsel may also advise IRS districts regarding such contacts and make clear they are outside the Service employee's jurisdiction.

Likewise Counsel must be sensitive to taxpayers who are represented by an attorney. Because of ethical considerations, it would be improper to discuss matters with taxpayers who have attorney representation. Thus, it is suggested that prior to PSD, District Counsel obtain a copy of the names of taxpayers with appointments so the status of possible litigation as well as whether

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the matter is with Counsel can be determined. The identification of cases in litigation or under the auspices of the Department of Justice will assist in determining how to handle a particular matter.

The following is a summary of roles and responsibilities for PSD:

**A. District Counsel:**

- Give PSD high priority.
- Maintain close liaison with District Director.
- Be personally involved in the planning of the PSD. Ensure that the IRS employees know how to refer matters to Counsel (know where they are and how to contact them).
- Coordinate with the District Director in advance to obtain a copy of the names of the taxpayers with appointments so that Counsel can determine if they have an open or closed case on them.
- Provide support at each site for the PSDs - either in person or by phone or fax from Counsel's office. On-site support should be provided as practical as determined by Regional Counsel. Heavy weight will be placed on whether the IRS district has requested on-site support.
- Assign a qualified District Counsel employee for each PSD.
- Provide legal advice to IRS and assist taxpayers by explaining laws, regulations, practices and procedures.
- Assist in negotiations or mediations with taxpayers.
- Maintain relevant case and time information on cases that involve Counsel or that require some type of follow-up after the PSD.
- Inform the taxpayer immediately if their issue can only be discussed with a DOJ attorney and offer assistance in getting in touch with that office.
- Let the taxpayer know if they are represented that their attorney is the appropriate person with whom the IRS should be dealing.

**B. Regional Counsel:**

- Give PSD high priority.
- Oversee and direct District Counsel.
- Determine if on-site support is practical and give special weight to a request by the IRS for on-site support.
- Provide a contact and a coordinator - the Assistant Regional Counsel (General Litigation).
- The Assistant Regional Counsel (General Litigation) will coordinate the PSD reports as described below.

**C. Associate Chief Counsel (Enforcement Litigation):**

- Act as a point of contact for the Regions and other Associates in PSD matters.
- Provide rolled up reports from the Regions to the Chief Counsel on problem solving day activity.

**III. CASE Opening and Reporting Instructions:** It is important to open a case on any PSD matter in which substantive legal advice or assistance is provided, or where follow-up action by Counsel may be required. If any of these criteria are present, it is appropriate to open a case even if less than an hour is spent on the matter. Additionally, Counsel attorneys should carefully document any advice they provide in these matters. For example, if we concur in the district's decision to release a levy under IRC § 6343, we need to later be able to retrieve that advice by taxpayer name. Issue tracking is also important, e.g., to identify trends that could assist in program decisions or training.

**A. CASE Procedures:** To facilitate reporting, PSD cases will be opened using GL-CASE. Detailed CASE instructions along with a CASE-MIS Opening Form and related materials have already been provided to the field and are not repeated in this notice. These instructions provide that the case will be entered into CASE with a special "aspect" code(s) indicating that it is a PSD matter. The instructions provide for the functional nature of the case to be entered along with issues (with UIL numbers) and narratives and allow for a due date to be entered on a case if further action is required. The instructions further provide that time should be posted directly to the cases worked with travel and noncase time being posted to the PSD indirect time category.

It should be noted that the Service may be referred problem cases for consideration as the result of Congressional hearings, or "town meetings", etc. These procedures accommodate such cases by providing a special "aspect" code described in the CASE instructions.

**B. Reports:** The reporting of PSD activities is designed to flow from the District Counsel, who provide initial information about PSD activity, through the Regional Counsel, who perform a regional analysis and roll-up of district data, to the Associate Chief Counsel (Enforcement Litigation), who performs a roll-up of regional data for the Chief Counsel. At the Regional Counsel level the Assistant Regional Counsel (General Litigation) has been designated the PSD coordinator.

District Counsel will provide three separate items to the Region. First, District Counsel will produce a monthly report of PSD activity from CASE. Second, within three days after notice of a PSD being scheduled, District Counsel should provide a list of the Counsel employees who will provide support at the PSD and note whether they will be on-site. Third, within three days after PSD, District Counsel will provide the region a short narrative report of PSD experiences which should include specific discussions of all egregious or otherwise important issues along with a tally of the total number of PSD inquiries from taxpayers or the IRS.

Regional Counsel will perform an analysis of the above items and provide summaries to the Associate Chief Counsel (Enforcement Litigation). Regional Counsel will provide summaries of CASE activity to the Associate in the form provided in the CASE instructions. Regional Counsel will also provide a consolidated

planning report to the Associate covering PSDs for the next month (including time, place and staffing) as well as a regional narrative summarizing egregious activities or important issues from the prior month. All of these items should be forwarded to the Associate's office by the fifth business day of the month.

The Associate Chief Counsel (Enforcement Litigation) will provide consolidated reports to the Chief Counsel and will coordinate any significant issues with the other Associates as necessary.

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/s/  
STUART L. BROWN  
Chief Counsel