



personnel, labor, procurement, and disclosure matters) will continue to be provided through the Associate Chief Counsel (General Legal Services) and the Assistant Chief Counsel (Disclosure and Privacy Law) in accordance with the applicable provisions of the CCDM.

**B. General Responsibilities Within Counsel.** These procedures contemplate a close working relationship among all Chief Counsel offices that are involved in providing legal advice to the Service Centers. Although different offices are assigned different primary areas of responsibility, it is anticipated that the offices and individuals assigned to these matters will share their expertise in these issues on a national basis.

1. Local Counsel. Local Counsel offices serve as the first point of contact for any request for legal advice from the Service Centers assigned to them. In general, Local Counsel offices will answer requests for routine advice directly without prior coordination with the National Office, and will respond to requests for significant advice after coordination with the National Office. Exhibit (35)300-1 lists the Local Counsel offices designated to provide advice to each Service Center.

2. Division Counsel. The Customer Accounts and Services Support Manager (Customer Accounts Manager) in the Small Business and Self Employed (SBSE) Division Counsel oversees the Service Center Advice Network (SCAN) and ensures the quality, timeliness and consistency of advice and training provided to the Service Centers by Local Counsel. The Customer Accounts Manager (SBSE) also will monitor the correctness of the classification of advice by Local Counsel and the requests for significant advice referred to the National Office for timeliness, coordinating these oversight responsibilities, where appropriate, with the Associate Chief Counsel (Procedure and Administration) and the Wage and Investment (W&I), Large and Mid Size Business (LMSB), Tax Exempt and Government Entity (TEGE) Division Counsel.

3. National Office. The Associate Chief Counsel (Procedure and Administration) serves as the first point of contact for requests for legal advice from the Chief of Field Operations ("COFO") or from any IRS National Office function with respect to matters affecting the Service Centers. The Associate Chief Counsel (Procedure and Administration) also is responsible for advising Local Counsel with respect to requests for significant advice from the Service Centers. Finally, the Associate Chief Counsel (Procedure and Administration) is responsible for ensuring that there is appropriate dissemination of advice provided pursuant to this Notice.

4. SCAN. SCAN includes attorneys and tax law specialists from each of the Local Counsel offices designated to provide advice to the Service Centers, the TEGE, LMSB, W&I, and SBSE Division Counsel, and the Associate Chief Counsel (Procedure and Administration). SCAN has primary responsibility for the identification and research of emerging issues related to any aspect of the tax administration functions of any Service Center or any related IRS function. SCAN is expected to hold regular meetings to discuss the implementation of recently issued SCA, emerging Service Center issues, and other related issues.

**C. Distinction Between Significant and Routine Advice.** In general, the procedures for providing legal advice for Service Center issues will depend upon whether the advice is considered "routine advice" or "significant advice."

1. Significant Advice. For purposes of these procedures, "significant advice" means any legal advice that is material to any aspect of the tax administration functions of any Service Center, or any related IRS activities, that:

- (a) Is expected to guide the application of the tax laws or administrative procedures in national, regional or district programs, or in any significant number of cases; or
- (b) involves a legal issue that cannot be resolved with a high degree of certainty by application of settled principles of law, either to the particular facts of the case or to the issue presented.

Notwithstanding the above, significant advice does not include advice that is consistent with significant advice previously rendered under these procedures on the same or a substantially identical issue.

2. Routine Advice. For purposes of these procedures, "routine advice" means any legal advice that is material to any aspect of the tax administration functions of any Service Center, or any related IRS activities, that is not significant advice as defined in Paragraph C.1. above. Generally, the category of "routine advice" is intended to cover advice that involves the application of well-settled principles of law to the facts of a particular taxpayer's case. Routine advice will not be used or cited as precedent for the resolution of similar issues for other taxpayers. Routine advice under these procedures generally will be comparable to the type of advice described in CCDM 35.2.7.2 and 35.2.7.3, which describe routine oral and written advice to local IRS functions.

#### **D. Form and Content of Significant Advice.**

1. In general. Significant advice provided under these procedures will address the interpretation or application of the internal revenue laws generally and is not legal advice that is intended primarily to assist in the resolution of a specific taxpayer's case.

2. Style and content. Significant advice furnished under these procedures will serve as internal guidance for Counsel and IRS employees. At the same time, however, it is expected that significant advice generally will be available to the public. Accordingly, this advice --

- (a) Should neither focus on the particulars of any specific taxpayer's case nor contain any other information that is protected from disclosure under the provisions of I.R.C. § 6103;
- (b) should not include settlement guidelines, analyses of litigation hazards of current or proposed Service positions, or similar information;
- (c) ordinarily should not include investigative tolerances, prosecutorial criteria, or similar information; and
- (d) may discuss differing or inconsistent points of view on an issue, but should not attribute them to particular individuals or offices.

3. Format. For further guidance concerning the appropriate format for significant advice see Exhibits (35)300-2 and 3.

**E. Definition of Service Centers.** For purposes of these procedures, the term "Service Center" includes any of the ten Submission Processing or Customer Service Centers, as well as the Martinsburg and Detroit Computing Centers. Except for National Office programmatic oversight provisions of these procedures, all of these centers are referred to as Service Centers.

**F. Dissemination of Advice.** These procedures contemplate that all significant (but not routine) advice provided to Service Centers, Computing Centers, COFO and related IRS functions, will be distributed to COFO, SBSE, W&I, TEGE, and LMSB Division Counsel, SBSE Area Counsel, and all Local Offices responsible for providing advice to Service Centers. The distribution of significant advice to Division and Local Counsel attorneys is intended to keep those attorneys apprised of significant issues relating to Service Centers and to assist them in providing related advice and training. Significant advice will be made available to the public in accordance with the rules of I.R.C. §§ 6103 and 6110(i), and other applicable disclosure and privacy laws.

## **II. SERVICE CENTER VISITATIONS BY LOCAL COUNSEL**

**A.** Local Counsel managers and attorneys should make regular visits to the Service Center for which they are responsible.

**B.** During visits to the Service Centers, attorneys may be called upon to provide legal advice in response to specific questions. Attorneys should be careful, however, not to provide oral responses to issues that should be addressed by or coordinated with the National Office as set forth in these procedures. When a visiting attorney is unclear as to the implications of any question raised during a visitation, the attorney should request that the issue be submitted in writing to Local Counsel as a request for written advice.

## **III. LOCAL COUNSEL PROCEDURES -- ADVICE TO SERVICE CENTERS**

**A. Initiation of Requests.** In general, Service Centers will be encouraged to communicate directly with the Local Counsel offices assigned to them to request legal advice on any matter affecting their tax administration responsibilities. Each Local Counsel office designated to serve a Service Center should take the initiative to inform the appropriate Service Center personnel of the availability of Local Counsel assistance and of the manner in which requests for advice should be submitted. Local Counsel managers and attorneys are encouraged to meet regularly with the appropriate Service Center personnel.

**B. Determination of Whether Advice Is Routine or Significant.** The Local Counsel office receiving a request for advice from a Service Center has the initial responsibility to determine whether the advice provided in response will be routine or significant, as defined in Paragraph I.C. above. The Service Center is not expected to make this determination, although the requestor may be asked to provide factual information that will assist in the classification (e.g., How many cases in the IRS are believed to raise the issue? Do other Service Centers have similar cases? Is the issue related to the design of a program intended to deal with a significant number of cases?).

When in doubt as to whether the issue is routine or significant, the Local Counsel office should consult with the National Office before determining that the question may be handled as routine advice.

**C. Procedures for Routine Advice.** Generally, existing guidelines in CCDM 35.2.7.2 and 35.2.7.3 should be followed in providing routine advice to Service Centers. Copies of any written routine advice provided to the Service Center should be sent only to the W&I, TEGE, LMSB, or SBSE Division Counsel, as appropriate, for programmatic oversight, and to the National Office through the Technical Services Section, Associate Chief Counsel (Procedure and Administration). See Paragraph IV.B. below.

**D. Procedures for Significant Advice.** Requests for significant advice must be coordinated with the National Office before Local Counsel provides a response to the Service Center.

1. Submit request to National Office. Requests for significant advice are to be submitted in writing to the National Office through the Technical Services Section, Associate Chief Counsel (Procedure and Administration). Local Counsel should provide all necessary assistance to the National Office during its consideration of the request; for example, Local Counsel should be prepared to obtain any further information or documentation from the Service Center that may be required for the preparation of the response.
2. Form of request. Local Counsel should draft the requests for significant advice in the same manner outlined in Paragraph I.D.2. above. Drafting the request in this manner is intended to facilitate the ultimate dissemination of the response to all Service Centers and other Counsel and IRS offices, while protecting against inappropriate disclosure of the information described in Subparagraphs (a) - (d) of Paragraph I.D.2.
3. Time for National Office response. Local Counsel should monitor the progress of the request while it is in the National Office. In general, Local Counsel should receive a response to a request for significant advice within 90 days after the request is submitted to the National Office. The time period for a response may be extended by agreement of the Branch Chief of the National Office function assigned primary responsibility for responding to the request for advice and the Customer Accounts Manager (SBSE). If the time period is extended, the Branch Chief is responsible for notifying the Chief, Technical Services Section, Associate Chief Counsel (Procedure and Administration) of the agreed response date. Local Counsel should notify the Customer Accounts Manager (SBSE) of any request that does not receive a timely response.
4. Transmitting advice to Service Center. Local Counsel is responsible for providing specific advice to the Service Center based on the National Office response. In some cases, Local Counsel may simply transmit the National Office response to the Service Center. In other situations, such as when additional taxpayer specific advice would be helpful to the Service Center in handling the particular matter that gave rise to the request, Local Counsel should provide a separate memorandum to reflect this additional advice. Copies of any such separate memorandum are to be provided only to the W&I, LMSB, TEGE, and

SBSE Division Counsel, as appropriate, and to the Technical Services Section, Associate Chief Counsel (Procedure and Administration).

5. Expedited procedure. When time constraints make it impractical to follow the procedures outlined in Paragraphs 1. through 4. above, Local Counsel will consult with the National Office by telephone to coordinate a response to the Service Center. Within 15 days after significant advice is provided on an expedited basis, Local Counsel will submit to the National Office a written request to confirm such advice; such requests will be handled in accordance with Paragraphs 1. through 4. above. This request should explain the circumstances that made expedited advice necessary.

#### **IV. NATIONAL OFFICE PROCEDURES FOR ADVICE REQUESTS FROM LOCAL COUNSEL**

**A. Requests for Significant Advice.** As indicated above, it is expected that all requests for significant advice will be coordinated with the National Office prior to advice being provided to the requesting Service Center.

1. Receipt and assignment by the National Office. All Local Counsel requests for significant advice are to be sent to the Technical Services Section, Associate Chief Counsel (Procedure and Administration). Within three days after receipt of the request, the Technical Services Section will:

(a) Assign the request to the Associate Office in the National Office that will be responsible primarily for providing the response;

(b) provide copies of the request to W&I, TEGE, and LMSB Division Counsel, the Customer Accounts Manager (SBSE), and COFO with a request for such additional information or comment as these offices might wish to provide; and

(c) ensure that the case is entered properly in TECHMIS.

2. Initial communication from Associate Office responsible for the National Office's response. Within three days of receiving the request for significant advice, the Associate Office in the National Office assigned primary responsibility for preparing the response to the request for significant advice will inform the submitting Local Counsel office, the W&I, TEGE, and LMSB Division Counsel, the Customer Accounts Manager (SBSE), and COFO of the name of the manager or attorney to whom the request has been assigned.

3. Coordination within National Office. The Associate Office assigned primary responsibility for a request for significant advice is responsible for all necessary coordination with other Associate Offices in the National Office (based on subject matter jurisdiction over the issues raised) and all appropriate IRS functions.

4. Time for response. Absent an agreement extending the time period, a response will be provided to Local Counsel within 90 days of the receipt of the

request by the Technical Services Section, Associate Chief Counsel (Procedure and Administration).

5. Delivery of responses. The Associate Office assigned primary responsibility for preparing the response to the request for significant advice will:

(a) Mail the response to Local Counsel by first class mail on the date that the response is issued;

(b) prepare a black and white version of the SCA if the SCA includes an investigative tolerance, prosecutorial criteria, or other information that is protected by law, see Paragraph I.D.2.(c);

(c) provide two paper copies of the response, one paper copy of the black and white version, if one was prepared, the electronic version of the response, the electronic version of the black and white version, and a completed Checksheet for Processing NonTaxpayer Specific CCA to the Disclosure Unit, Associate Chief Counsel (Procedure and Administration), who will make the document available for public inspection as required under section 6110(i)(4)(A)(ii). The electronic version(s) of the response should be sent to the Disclosure Unit's electronic mailbox at "6110 Disclosure" using "Normal" sensitivity; and

(d) provide one paper copy and the electronic version of the original, unredacted response to the Technical Services Section, Associate Chief Counsel (Procedure and Administration), who will distribute the SCA to the W&I, TEGE, and LMSB Division Counsel, the Customer Accounts Manager (SBSE), SBSE Area Counsel, all Local Counsel responsible for providing advice to Service Centers, and COFO. The electronic version of the response should be sent to Technical Service Section's electronic mailbox at "TSS4510" using "Normal" sensitivity.

6. Further dissemination of significant advice. Upon receipt of the National Office response, Local Counsel will provide advice to the Service Center as described in Paragraph III.D.4., above. The original, unredacted SCA may be provided only to those persons whose official tax administration duties require such disclosure. If Local Counsel supplements the SCA with its own writing, see Paragraph III.D.4., copies of the supplement provided to the Service Center are to be provided only to the Technical Services Section, Associate Chief Counsel (Procedure and Administration) and the W&I, LMSB, TEGE and SBSE Division Counsel, as appropriate.

7. Requests for reconsideration. COFO will coordinate with other IRS functions as they determine necessary, and, within 45 days after receipt of the advice, will provide the Associate Office that prepared the advice with any comments, clarifications, or further inquiries that they determine appropriate. To the extent that comments, clarifications or further inquiries arise, reconsideration of the issued significant advice will follow. Reconsideration will be treated as a new request for advice. Dissemination of the original issued significant advice will be in accordance with Paragraphs 5 and 6. To the extent that reconsideration requires

new or revised significant advice, a new or revised significant advice will be issued and disseminated in accordance with Paragraphs 5 and 6.

**B. Requests for Routine Advice.** It is expected that Local Counsel will respond to requests for routine advice from Service Centers without prior consultation with the National Office, and that such advice will not be reviewed in the National Office. A copy of all routine advice will be sent to Technical Services Section, Associate Chief Counsel (Procedure and Administration) to permit the identification of emerging issues or trends that might not be apparent to individual Local Counsel offices and to ensure that the advice was properly classified as routine. The copies of routine advice will not be digested, indexed, maintained, or used as precedent.

**V. NATIONAL OFFICE PROCEDURES FOR ADVICE REQUESTS FROM IRS NATIONAL OFFICE FUNCTIONS**

**A. Offices Included.** For purposes of these procedures, National Office functions include all headquarters or program functions within the Commissioner's office or within the Office of Chief Counsel.

**B. Procedures.**

1. Receipt and assignment by the Associate Chief Counsel (Procedure and Administration). All requests for significant advice from National Office functions are to be sent to the Technical Services Section, Associate Chief Counsel (Procedure and Administration). Within three days after receipt of the request, the Technical Services Section will:

(a) Assign the request to the Associate Office that will be responsible primarily for providing the response;

(b) if the request is not made by COFO, provide a copy of the request to the COFO with a request for such additional information or comment as that office might wish to provide;

(c) if the request involves a particular Service or Computing Center, provide a copy of the request to the Local Counsel principally servicing that center with a request for such additional information or comment as that office might wish to provide;

(d) provide copies of the request to the W&I, LMSB, and TEGE Division Counsel, and the Customer Accounts Manager (SBSE) with a request for such additional information or comment as that office might wish to provide; and

(e) ensure that the case has been entered properly in TECHMIS.

2. Initial communication from Associate Office responsible for National Office's response. Within three days of receiving the request, the Associate Office in the National Office assigned primary responsibility for a request for significant advice will inform the submitting office, W&I, LMSB, and TEGE Division Counsel, the

Customer Accounts Manager (SBSE), COFO, and Local Counsel, as appropriate, of the name of the manager or attorney to whom the request has been assigned.

3. Coordination within National Office. The Associate Office assigned primary responsibility for a request for significant advice also is responsible for all necessary coordination with other Associate Offices in the National Office (based on subject matter jurisdiction over the issues raised) and all appropriate IRS functions.

4. Time for response. Absent an agreement extending the time period, the division assigned primary responsibility for the request will provide a response to the submitting function, and COFO (if not the submitting function) within 90 days of the receipt of the request by the Technical Services Section.

5. Delivery of responses. The Associate Office assigned primary responsibility for preparing the response to the request will:

(a) provide the response to the submitting function on the date that the response is issued;

(b) provide two paper copies of the response, the electronic version of the response, and a completed Checksheet for Processing NonTaxpayer Specific CCA to the Chief, Disclosure Unit, Associate Chief Counsel (Procedure and Administration), who will make the document available for public inspection as required under section 6110(i)(4)(A)(ii). See IV.A.5(b). The electronic version of the SCA should be sent to the Disclosure Unit's electronic mailbox at "6110 Disclosure" using "Normal" sensitivity; and

(c) provide one paper copy and the electronic version of the original, unredacted SCA to the Technical Services Section, Associate Chief Counsel (Procedure and Administration), who will distribute the SCA to the W&I, TEGE, and LMSB Division Counsel, the Customer Accounts Manager (SBSE), SBSE Area Counsel, all Local Counsel responsible for providing advice to Service Centers, and COFO. The electronic version of the SCA should be sent to Technical Service Section's electronic mailbox at "TSS4510" using "Normal" sensitivity.

6. Further dissemination of significant advice and requests for reconsideration. COFO will coordinate with other IRS functions as they determine necessary, and, within 45 days after receipt of the advice, will provide the Associate Office that prepared the advice with any comments, clarifications, or further inquiries they determine appropriate. To the extent that comments, clarifications or further inquiries arise, reconsideration of the issued significant advice will follow. Reconsideration will be treated as a new request for advice. Dissemination of the original issued significant advice will be in accordance with Paragraph 5. To the extent that reconsideration requires new or revised significant advice, a new or revised significant advice will be issued and disseminated in accordance with Paragraph 5.

## **VI. NATIONAL OFFICE PROCEDURES FOR REQUESTS RECEIVED DIRECTLY FROM THE SERVICE CENTERS**

**A. Classification of Requests.** It is not expected that the Service Centers will request advice directly from the National Office. See Paragraphs I.B.1. and III.A. Any request for advice received by any National Office function directly from a Service Center will be classified as either routine or significant in accordance with the criteria set forth in Paragraph I.C. The National Office function receiving the request will coordinate with the Local Counsel office assigned to the Service Center and with the Technical Services Section to ensure that a complete record of significant requests is maintained there.

**B. Requests for Significant Advice.** Requests for significant advice received directly from Service Centers or Computing Centers will be referred to COFO to determine whether the National Office should address the question. If COFO requests that the question be answered by the National Office, the request will be considered a request for advice from COFO or the appropriate National Office function in accordance with the procedures set forth in Paragraph V.

**C. Requests for Routine Advice.** Requests for routine advice will be forwarded to the Local Counsel assigned to that Service Center for handling in accordance with Paragraph III.

## **VIII. ELECTRONIC TRANSMISSION OF DOCUMENTS**

**A. Electronic Transmissions Preferred.** To facilitate the dissemination of documents under this procedure to various Local Counsel, Division Counsel, National Office, and IRS Functions as required, all documents will be created and transmitted electronically via e-mail or floppy disk. The request for advice should be transmitted as an attachment to an e-mail message to "TSS4510" mailbox. Any e-mail message sent to "TSS4510" or "6110 Disclosure" must be transmitted using "Normal" sensitivity. Shared mailboxes, such as "TSS4510" and "6110 Disclosure," cannot accept messages sent using the "Personal," "Private," or "Confidential" sensitivities. If the request for advice is sent as a paper copy, it should include a transmittal memorandum and a floppy disk containing the advice or request for advice. Paper copies of the request should be sent to the Associate Chief Counsel (Procedure and Administration), Attn: Technical Services Section, Internal Revenue Service, 1111 Constitution Avenue, N.W., CC:PA, Room 4510, Washington, D.C. 20224.

**B. Identification of Contents.** Any transmittal to the Technical Services Section from Local Counsel will identify the source of the request, any prior National Office contacts with respect to the subject matter, and specify that the document is being transmitted pursuant to these procedures. The transmittal of any response to the Technical Services Section and the Disclosure Unit from the National Office will identify the request to which it responds and a TECHMIS workload identification number for ease of tracking and association.



## Exhibit (35)300-1

### LOCAL COUNSEL CONTACTS

<u>Service Center</u>	<u>Local Counsel</u>	<u>Telephone Number</u>
Andover	Maureen O'Brien & John Mikalchus	617-565-7899
Atlanta	Bill Timm & Monica Armstrong	404-338-7980
Austin	Lewis Hubbard & Jerry Hamilton	512-499-5440
Brookhaven	Lewis J. Abraham & Patricia Riegger	516-688-1702
Cincinnati	Jill Warner & Lyndell Pickett	502-582-5471
Fresno	Mike Steiner	408-817-4683
Kansas City	James Cannon	816-283-3046
Memphis	Robert B. Nadler, John E. Glover E. Ford Holman, Jr.	615-250-5123 615-250-5525 615-250-5466
Odgen	Mark Howard	801-799-6620
Philadelphia	Dave Breen	215-597-3442
Detroit Computing Ctr.	Robert D. Heitmeyer	313-237-6430
Martinsburg Computing Center	Keith Fogg Timothy B. Heavener	804-771-8138

**Exhibit (35)300-2**



**OFFICE OF  
CHIEF COUNSEL**

**DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224**

MEMORANDUM FOR ASSOCIATE CHIEF COUNSEL  
(PROCEDURE AND ADMINISTRATION)  
Attn: Chief, Technical Services Section

FROM: Local Counsel

SUBJECT: Significant Service Center Advice Request

Provide a generic (no taxpayer identification information) description of the facts and the resulting issue(s) for which the requesting office seeks advice.

Explain why the requesting office identifies the above facts and/or issue(s) as significant.

Exhibit (35)300-3



OFFICE OF  
CHIEF COUNSEL

DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224

Enter date for electronic version

UILC:        xxxx.xxxx

MEMORANDUM FOR    LOCAL COUNSEL OR NATIONAL OFFICE FUNCTION

FROM:                    Associate Chief Counsel  
                              CC:XXXX

SUBJECT:                Significant Service Center Advice

**The Memorandum MACRO for Field Service Advice can be used. Delete “Field Service Advice” from the heading and insert “Service Center Advice.” Because SCA is intended to be nontaxpayer specific, the use of a legend ordinarily will not be necessary. Instead of the FSA introductory paragraph and disclosure statement, use the following introductory paragraph.**

This responds to your request for Significant Advice dated \_\_\_\_\_, in connection with a question posed by the \_\_\_\_\_ function of the \_\_\_\_\_ Service Center.

**ISSUE(s)**

State the issues as presented by the requesting office. Also, whenever appropriate, state any additional issues that the incoming request did not specifically raise, or restate the issue presented to identify the real question at hand.

**CONCLUSION**

Provide a specific statement setting out the conclusion reached for each issue. Write the conclusion clearly, leaving no doubt as to its meaning. Also, make sure to mention that it is based solely on the facts presented.

## **FACTS**

Concisely set out the statement of facts offered by the requesting office, without sacrificing clarity. Fully present the essential facts, but do not refer to specific taxpayers. Using short quotations from the incoming statement may help focus on particular areas, especially when the conclusion depends on the interpretation of such language. Avoid lengthy quotations from documents contained in the file.

## **DISCUSSION**

Set forth clearly and concisely the pertinent law, regulations, published rulings of the Service, and case law or other precedent. Ensure that all citations are directly on point. Use quotations judiciously, and avoid lengthy ones whenever practicable.

Provide sufficient rationale to bridge any gaps between the issue, law, and conclusion. Recall that this is a public document. Use caution and keep in mind all restrictions on technical assistance.