

CC-2002-026

May 16, 2002

Subject: Procedures for Obtaining and Processing Chief Counsel Advice **Cancel Date:** Upon Incorporation into the CCDM

I. PURPOSE

This notice is to apprise all Chief Counsel employees of the procedures for obtaining and processing Chief Counsel Advice (CCA). The Chief Counsel Directives Manual (CCDM) at 35.8.12.7.1 is modified by this Notice. This Notice is prepared in a Q&A format and deals with questions regarding the definition of CCA, obtaining CCA, processing CCA for public dissemination and the dissemination of unredacted CCA within the Office of Chief Counsel and the Service (including Appeals).

II. DEFINITIONS

Q.1. What are the 6110 Documents prepared by Counsel?

A.1. 6110 documents prepared by Counsel are Technical Advice Memoranda (TAMs), Private Letter Rulings (PLRs) and Chief Counsel Advice (CCA). We refer to these documents as 6110 documents because we are required to make them available for public inspection and copying under section 6110. These documents are distinguishable from other documents (e.g., information letters and nondocketed significant advice requests) that we make available for public inspection.

Q.2. What is Chief Counsel Advice?

A.2. Chief Counsel Advice is written advice or instruction prepared by any national office component of the Office of Chief Counsel which is issued to the field or to service center employees of the Service, that conveys a legal interpretation or Service position or policy relating to a revenue provision, or the assessment or collection of any liability under a revenue provision. Suit letters to, and subsequent correspondence with, the Department of Justice, appeal or certiorari recommendation letters, and technical assistance prepared by a National Office attorney and provided to other National Office employees of the Service, including the Office of Chief Counsel, are **not** CCA. TAMs and PLRs, while 6110 documents, are **not** CCA.

Filing Instructions: Binders Part (35) Master Sets: NO X RO X

NO: Circulate Distribute X to: All Personnel Attorneys X In: all divisions

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Electronic Filename: CCA.pdf Original signed copy in: C:FM:PM:P

Q.3. Are comments that the National Office provides on a proposed Notice of Deficiency or a defense letter that is prepared by an Area Counsel or Associate Area Counsel attorney Chief Counsel Advice?

A.3. Generally, no. If the National Office attorney marks up or edits a proposed Notice of Deficiency or a proposed defense letter, the document returned to the local Counsel attorney or Service employee is **not** CCA. If, however, the National Office attorney prepares a document, for example a memorandum, for the local Counsel attorney or Service employee that provides legal advice on the issues to be included in the notice of deficiency or the proposed defense letter, the document, prepared by the National Office attorney **is** CCA. Please note, however, that the actual Notice of Deficiency issued to the taxpayer or the defense letter sent to the Department of Justice is **not** CCA.

Q.4. Are the Telephone Advice Forms used by National Office attorneys to memorialize the informal advice they gave over the telephone Chief Counsel Advice?

A.4. No. Informal advice, including advice memorialized on Telephone Advice Forms and short emails that take the place of such telephone calls, are **not** CCA.

Q.5. Is a memorandum issued by Counsel's National Office to a local Service office when a PLR or similar document (e.g., Change of Accounting Method, Change of Accounting Period, Closing Agreement) is withdrawn Chief Counsel Advice?

A.5. A transmittal memorandum that notifies a local Service office that the accompanying incoming request for PLR, or similar document (e.g., Change of Accounting Method, Change of Accounting Period, Closing Agreement) has been withdrawn by the taxpayer and offering to provide assistance is **not** CCA. Such a transmittal memorandum should not include legal advice (including the reasons as to why the Service may have tentatively been adverse to the PLR request). Rather, any legal advice issued to the local office, whether issued at the time of withdrawal or subsequent thereto, should be provided in a separate memorandum and **is** CCA.

Q.6. Is the memorandum sent by Counsel's National Office to the local Service office with a TAM that offers additional information, such as case development, litigating hazards, or settlement parameters, Chief Counsel Advice?

A.6. Yes. Thus, we redact both taxpayer identifying information and any privileged information before it is released. Please note, however, this memorandum **should not** repeat the analysis of the issue addressed in the TAM, including the recitation of, and the response to, arguments not adopted by the TAM.

Q.7. What are the National Office components of the Office Of Chief Counsel for purposes of the CCA rules?

A.7. The Associate Offices and the Division Counsel, including their immediate headquarters staffs, are National Office components of the Office of Chief Counsel. In contrast, Area Counsel, Associate Area Counsel and the attorneys who report to them are field employees for purposes of the CCA rules.

Q.8. What are the National Office components of the Internal Revenue Service for purposes of the CCA rules?

A.8. The Operating Division Headquarters and major program and policy offices are National Office components for purposes of the CCA rules. These offices include the Customer Assistance, Relationships and Education, Customer Account Services, and Compliance program and policy offices in the Wage and Investment Division; the Industry Directors in the Large and Mid-Size Business Division; the Taxpayer, Education and Communication, and Customer Account Services program and policy offices in the Small Business/Self Employed Division; and the Directors and their staff in the Tax Exempt and Government Entities Division.

Q.9. What are Background File Documents?

A.9 Background file documents with respect to 6110 documents include the request for written advice; any written material submitted with the request for written advice; and any communication between the Service and persons outside the Service in connection with the written determination, except for communications between the Department of Justice and the Service relating to a pending civil or criminal case or investigation, before the 6110 document is issued.

III. REQUESTING A CCA FROM THE NATIONAL OFFICE

Q.10. To whom should the local Counsel attorney's memorandum requesting CCA be addressed?

A.10. The memorandum should be addressed to the Associate Chief Counsel for the National Office Counsel function that has subject matter jurisdiction over the primary issue in the case.

Q.11. Where do local Counsel attorneys submit their requests for CCA?

A.11. Requests for CCA are submitted to the National Office through the Technical Services Section, Associate Chief Counsel (Procedure and Administration). Requests can be submitted to the Technical Service Section electronic mailbox, "TSS4510" or by regular mail at Internal Revenue Service, 1111 Constitution Avenue, N.W., CC:PA:TSS, Room 4510, Washington, D.C. 20224. If the request is submitted via email, it must be submitted using "**Normal**" sensitivity.

Q.12. What information do local Counsel attorneys need to include in their requests for CCA?

A.12. The request for CCA **must** include:

1. the specific issue(s) for which advice is being requested, including the applicable Uniform Issue List number for each issue;
2. all facts in the case that pertain to the issue(s);
3. the requesting attorney or other IRS field employee's views and the basis for such views;
4. the taxpayer's views and the basis for such views;
5. in a nondocketed case, the expiration date of any applicable statute of limitations; and
6. any other information, including documents or exhibits, that may be necessary or helpful in answering the request for advice.

Q.13. Is there any additional information that local Counsel attorneys should include with their CCA requests to facilitate the disclosure of the CCA?

A.13. Yes, the local Counsel attorney **must** include recommendations (including the basis for the recommendations) concerning the deletion of any information in the request or other "background file documents" submitted with the request. If the requested CCA is taxpayer specific, the request also must include the full name of the taxpayer who is the subject of the request, the taxpayer's taxpayer identification number (TIN), and the taxpayer's last known mailing address.

Q.14. What does the Technical Services Section do with the request for CCA?

A.14. The Technical Services Section assigns the request for CCA to the Associate Office in the National Office that has primary responsibility for providing the response.

Q.15. How do local Counsel attorneys find out the name of the National Office attorney who has been assigned to their requests for CCA?

A.15. The Associate Office with primary responsibility for preparing the CCA is responsible for sending an email to the requestor with the names and telephone numbers of the National Office branch reviewer and attorney to whom the request has been assigned to the local Counsel attorney who requested the CCA. The email should be sent **within seven (7) calendar days** after the request for CCA has been received in the National Office. This information is also available in CASE-MIS.

Q.16. Is the Technical Services Section responsible for coordinating the request for CCA with the other Associate Offices?

A.16. No. The Associate Office assigned primary responsibility for preparing the CCA is responsible for coordinating the request for advice with the other Associate Offices in the National Office.

IV. PREPARING CCA

Q.17. Is there a standard format for preparing a CCA?

A.17. Yes. CCA may currently be prepared using the Office's MACROs, which incorporate the standard format for the document to be issued, including the standard introductory paragraph and disclosure statement.

Q.18. Does the Taxpayer's name appear in the subject line of a taxpayer specific CCA?

A.18. No. The subject line of a taxpayer specific CCA **should** reflect the primary issue addressed in the CCA, **not** the name of the taxpayer.

Q.19. Should the assistance received from another Associate Office or another branch in the Associate Office be attached to issued CCA?

A.19. No. If a coordination request is made, the response received from the other National Office function is **not** CCA and it should **not** be attached to, or enclosed with, the CCA that is provided to the field attorney or other Service field employee. The attorney preparing the CCA should review the assistance and integrate its analysis, as appropriate, into the CCA that will be issued to the field.

Q.20. Should a CCA make reference to a previously issued CCA?

A.20. Generally, no. 6110 documents are not official rulings or positions of the Service and, accordingly, are not and should not be used or cited as precedent. If, however, the previously issued CCA was issued in the same case and the current CCA supplements the advice given in the prior CCA, the following may be added before the last sentence of the introductory paragraph of the current CCA: "This Chief Counsel Advice supplements the advice previously issued in this case on (date)."

Q.21. Should a National Office attorney cite to or attach to the CCA other 6110 documents that have been issued previously?

A.21. No. 6110 documents are not official rulings or positions of the Service and, accordingly, are not and should not be used or cited as precedent. National Office attorneys may review these documents, as part of their legal research, to the extent that the documents address the same or a similar issue as the issue in the attorneys' case, and, as appropriate, integrate the legal analysis into the CCA.

Q.22. TAMs and PLRs are sometimes withdrawn or revoked; are issued CCAs withdrawn or revoked?

A.22. Issued CCA are **never** withdrawn or revoked. If it is determined that the prior advice was not correct or additional information changes the analysis in a particular case, new advice may be issued. The new advice should provide an analysis of the case based on the facts and law at the current time.

Q.23. If CCA are not precedent, may a local Counsel attorney and Service employee, who are working on the particular case in which the CCA is issued, rely on the advice contained in the CCA?

A.23. Yes. Although CCA are not official rulings or positions of the Service, the local Counsel attorney or Service employee, including an Appeals Officer, may use, as appropriate, the advice in the CCA in developing, settling, or resolving the case in which the CCA was issued. Local Counsel attorneys or Service employees should review the CCA and, as appropriate, integrate the legal analysis into their development of the case. This does not mean, however, that the CCA should be attached to, incorporated into, or cited in, the work product of the local Counsel attorney or Service employee.

V. REDACTING 6110 DOCUMENTS

Q.24. Is it necessary to use the redaction toolbar when the 6110 documents are redacted?

A.24. Yes. The Disclosure Unit cannot process the document if the document is redacted without using the redaction toolbar.

Q.25. What information is the Service required to redact from 6110 documents before they are made available for public inspection?

A.25. The Service is required to delete the names, addresses, and other identifying details of the taxpayer to whom the 6110 document pertains and of any other taxpayer or entity identified in the 6110 document.

Q.26. Should the National Office attorney's name, unique identifying number (badge number), or the names and unique identifying numbers of Service or Chief Counsel employees, other than the name of the individual who signs the document, be included in the CCA?

A.26. No. If this information is included in a CCA, we generally cannot redact the names of Chief Counsel attorneys or other Service employees, including the organizational component to which they are assigned, or the office location. Thus, CCA should be prepared without including this information.

Q.27. Should the name and unique identifying number (badge number) of the contact person provided in a PLR be redacted?

A.27. Yes. The name and unique identifying number of the contact person are redacted from PLRs made available for public inspection.

Q. 28. Should all dates, dollar amounts, percentages, or the taxpayer's industry, geographic location, business relationships, or associates be redacted from a 6110 document?

A.28. Not necessarily. This information is not taxpayer identifying *per se* and, therefore, should not be deleted unless, given the facts of a particular case, it is determined that such information is a taxpayer identifier. For example, the date on which a merger of corporations occurred or a date that a document is filed with a court or other government agency would probably be deleted where such information is available in the public record, but statutory due dates, the date that a document is filed with the Service, or the date of most correspondence between the Service and the taxpayer would not necessarily be deleted.

Q.29. Should the CATS or CASE-MIS control number be redacted from a 6110 document?

A.29. In nondocketed cases, no; in docketed cases, yes. In nondocketed cases, the public generally cannot identify the taxpayer with this information. In docketed Tax Court cases, the CATS and CASE-MIS control numbers include the Tax Court docket number. Because Tax Court docket numbers are available to the general public, the inclusion of this information in the 6110 document will identify the taxpayer. Accordingly, the CATS and CASE-MIS control numbers should be redacted from 6110 documents for a docketed case.

Q.30. Are there any standards for deciding whether a 6110 document contains taxpayer identifying details?

A.30. Yes. The standard is whether a reasonable person generally knowledgeable with respect to the appropriate community will be able to identify the person based on the information available in the community at the time the document is to be released. The "appropriate community" could be an industry or geographical community.

Q.31. What additional deletions can be made to a CCA before it becomes available to the public?

A.31. Information in the CCA that is protected from disclosure under the Freedom of Information Act (FOIA) may be deleted. This includes, but is not limited to, information that would not be available by law to a party other than the Service, in litigation against the Service (attorney work product or attorney-client communications), or information compiled for law enforcement purposes, if the release of such 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, or would disclose law enforcement techniques or procedures, tolerances, or guidelines, if such disclosure could reasonably be expected to risk circumvention of the law.

Q.32. Why is it necessary to justify any recommended redactions other than those pertaining to taxpayer identifying information?

A.32. The exemptions incorporated into section 6110(i)(3) are borrowed from the FOIA, which is a disclosure, rather than a confidentiality, statute. Accordingly, the presumption is to disclose, with the burden on the Service to justify any nondisclosure.

Q.33. Can the CCA be rewritten, if it turns out that material that needs to be redacted was inadvertently written “above the line”?

A.33. No. Ideally, material that should be redacted (other than taxpayer identifying information) from a CCA should appear “below the line” in the section entitled “Case Development & Strategy Recommendations.” If, however, sensitive governmental information is included in other portions of an issued Chief Counsel Advice, the document should **not** be rewritten to relocate that privileged information “below the line” after the document has been issued. The privileged information should, however, **be redacted** from the CCA **before** it is made available to the taxpayer and the public.

Q.34. May discussions of the law be redacted from Chief Counsel Advice?

A.34. In general, discussions of the law should be disclosed.

Q.35. What is the scope of the attorney-client privilege as it pertains to CCA?

A.35. Generally, discussion of a legal argument that may be applicable to a given set of facts is not *per se* protected by the attorney-client privilege. Information the government attorney gives to the case agent to assist in case development may, however, include material protected by the attorney-client privilege. For example, discussion of how the case agent should develop a set of facts to support a given legal argument may be protected by the attorney-client privilege.

Q.36. What is the scope of the deliberative process privilege as it pertains to CCA?

A.36. The claim of deliberative process only applies to discussions as to the shape and direction of ongoing or upcoming policy discussions and/or considerations which may appear in a CCA. By way of example, language such as “we are discussing with Treasury the prospects for legislation to close this loophole” or “we are recommending that Treasury expedite this regulation project,” so long as the information is not otherwise already known by the public (e.g., public addresses before external stakeholders or press, which may discuss, for example, details of the Guidance Priority List) may be redacted where the disclosure would be harmful to ongoing compliance activities or rule-making processes.

Q.37. What is the scope of the attorney work product doctrine as it pertains to CCA?

A.37. Claiming attorney work product requires a litigation predicate, either docketed in court, or, based on the totality of the facts, there is a reasonable anticipation of litigation (e.g., designated case, prior cycles with the taxpayer on these issues were litigated; taxpayer representative advises of intention to litigate, etc.). The attorney work product doctrine in a CCA does not, however, include general discussions of the law, including the application of those legal principles to the particular facts of the case that is the subject of the CCA.

Q.38. May strategic discussions or assessments of litigating hazards be redacted under the work product doctrine where a litigation predicate is present?

A.38. Yes. Strategic discussions should be redacted. A specific assessment of a litigating hazard, and the recommendation which follows from it (*i.e.*, settle, litigate, concede a particular issue), also should be redacted. “We see the court holding in our favor as a 50-50 proposition” along with an analysis may be withheld. A numeric assessment, however, is not needed in order to redact. For example, the phrase “the court is likely to accept taxpayer’s position” should be redacted because the phrase “likely” means “more than 50%.”

Q.39. May an assessment of litigation hazards be redacted where no litigation predicate is present?

A.39. Yes. In documents for which the attorney work product predicate is not present, information may be redacted in reliance on FOIA exemptions 2 or 7. These types of strategic discussions, which may include recommendations as to the development of specific additional facts, tolerances, assessments of litigating hazards or the case’s strengths and weaknesses, or particulars as to the scope and direction of the case, may be redacted in reliance on FOIA exemption 7A, where it is established that the information’s disclosure will frustrate, or otherwise adversely affect, the audit, investigation, litigation, or similar ongoing compliance activity.

Similarly, discussions of litigating hazards, tolerances, settlement criteria or the prospects for concession, when they may affect similarly situated taxpayers, should be redacted under FOIA exemptions 2 and 7E, which exemptions protect from disclosure guidelines for law enforcement investigations.

Q.40. What are some examples of the law enforcement privileges, subsumed within FOIA exemption 7A, that may be claimed on a case-by-case basis?

A.40. The following are types of interferences with ongoing enforcement activities (e.g., examinations, criminal investigations, collection activities, judicial proceedings) that are encompassed by FOIA exemption 7A: Fears of disclosure of (1) evidence; (2) witnesses; (3) prospective testimony; (4) the reliance placed by the government upon the evidence; (5) the transactions being investigated; (6) the direction of the

investigation; (7) government strategy; (8) confidential informants; (9) the scope and limits of the government's investigation; (10) the attorney work product; (11) the methods of surveillance; and (12) subjects of surveillance. The disclosure of this information could reasonably be expected to risk circumvention of law.

Q.41. Is there anything else that needs to be kept in mind when redacting CCA?

A.41. Yes. CCA privilege redactions are discretionary. Thus, information (other than taxpayer identifying information) which is subject to a privilege should be redacted if its disclosure would adversely affect IRS enforcement, compliance, litigation, rule-making, or similar activities.

Q.42. Are the same standards for redaction used when a request for the Background File Documents to a 6110 document is processed?

A.42. Yes. The same standards apply to redactions from background file documents.

Q.43. What must the National Office attorney do if local Counsel recommends either additional or fewer redactions to the CCA?

A.43. When local counsel recommends either additional or fewer redactions to the CCA, the National Office attorney must review these recommendations and make a judgment on their appropriateness. If there is agreement with local counsel's recommendations, the agreed upon redactions should be made on the black and gray and black and white versions of the CCA before the document is sent to 6110 Disclosure. If there is disagreement with local counsel's recommendations, local counsel must be contacted to discuss the differences (*i.e.*, the National Office and local counsel office must agree on the redactions before the CCA is sent to 6110 Disclosure for processing). Should the disagreements not be resolved regarding the proposed redactions, the issue must be elevated under the Office's reconciliation procedures.

Q.44. May changes to the text of the CCA be made if local counsel disagrees with the proposed redactions in the CCA?

A.44. No. Once the CCA has been issued (signed and dated), the text of the CCA may not be moved or changed, except for obvious typographical errors. Please note, however, that additional redactions are not changes to the text and may be made, if appropriate. See question 43, above.

VI. DISSEMINATING CCA TO THE PUBLIC

Q.45. What is the timetable for making PLRs and TAMs available to the public?

A.45. In general, PLRs and TAMs must be available for public inspection not less than 75 days and not more than 90 days after the taxpayer to whom the PLR or TAM pertains has been provided notice of intention to disclose. The release of PLRs and TAMs cannot be expedited.

Q.46. When do we give the taxpayer to whom a PLR or TAM pertains notice of intention to disclose?

A.46. The taxpayer is given notice of our intention to disclose when the document is issued. PLRs are issued when they are dated and signed by the Counsel employee authorized to sign the PLR. TAMs are issued by the IRS field office after it is adopted by the field director.

Q.47. What is the timetable for making nontaxpayer specific CCA available to the public?

A.47. Nontaxpayer specific CCA are made available for public inspection within 60 days after the CCA has been issued. CCA are issued when they are dated and signed by the Counsel employee authorized to sign the CCA. Because of processing constraints, the release of nontaxpayer specific CCA cannot be expedited.

Q.48. What is the timetable for making taxpayer specific CCA available to the public?

A.48. Taxpayer specific CCA are made available for public inspection not less than 75 days and not more than 90 days after the taxpayer to whom the CCA pertains has been provided notice of intent to disclose. Because of processing constraints, the release of taxpayer specific CCA cannot be expedited.

Q.49. When do we give the taxpayer to whom a taxpayer specific CCA pertains notice of intention to disclose?

A.49. The taxpayer must be provided with the notice of intention to disclose within 60 days after the document is issued. CCA are issued when they are dated and signed by the Counsel employee authorized to sign the CCA.

Q.50. Who is responsible for providing the taxpayer with the notice of intention to disclose?

A.50. The Disclosure Unit is responsible for providing the taxpayer with the notice of intention to disclose. The issuing office is responsible for timely sending the completed appropriate checksheet and 6110 document to the Disclosure Unit for appropriate processing.

Q.51. Will the Disclosure Unit send the original, dated and signed PLR to the taxpayer who requested the ruling?

A.51. Yes. The Disclosure Unit will send the original PLR and the 6110 copy to the taxpayer when it provides the taxpayer with the notice of intention to disclose.

Q.52. Will the Disclosure Unit send the original TAM to the Service office that requested the advice?

A.52. Yes. The Disclosure Unit will send the original TAM, the 6110 copy, and a blank notice of intention to disclose to the requesting Service office. After the requesting Service office adopts the TAM, it will send the original TAM, the 6110 copy and the completed notice of intention to disclose to the taxpayer.

Q.53. Will the Disclosure Unit send the original CCA to the Service office that requested the advice?

A.53. No. The issuing office is responsible for sending the original, dated and signed CCA to the requesting office.

Q.54. Are the CCA and the notice of intention to disclose sent to the taxpayer or the taxpayer's authorized representative?

A.54. The CCA and the notice of intention to disclose are sent to the taxpayer. The statute specifically authorizes that the notice of intention to disclose should be sent to the taxpayer. The sole purpose for providing notice of intention to disclose is to afford the specific taxpayer with an opportunity to participate in the process of redacting taxpayer identifiers from the CCA before it is released to the public. Sending the notice of intention to disclose directly to the taxpayer is not a violation of any ethical rule.

VII. DISSEMINATING CCA WITHIN THE SERVICE AND COUNSEL

Q.55. May CCA, with neither privileged material nor taxpayer identifying information, be internally disseminated prior to public availability?

A.55. Yes.

Q. 56. May taxpayer specific CCA, without any privileged material, be internally disseminated prior to public availability?

A.56. No. Not every Service or Counsel employee will have a "need to know" the return information contained in the CCA, consistent with section 6103(h)(1). Moreover, before the taxpayer notification process is completed, it is possible that additional redactions will need to be made. Thus, only by waiting until the CCA is made publicly available may we be assured that all appropriate redactions have been made.

Q.57. May taxpayer specific CCA (with or without privileged material) be shared with any Service and/or Counsel, working on the particular case in which the advice was issued, regardless of when the employee begins to work on the case?

A.57. Yes. Dissemination among Service and/or Counsel personnel working on a case with the same taxpayer satisfies section 6103(h)(1)'s "need to know" standard. Any privileged material should remain privileged and not deemed waived as the recipient is in privity with the original recipient of the document.

Q.58. May taxpayer specific CCA (with or without privileged material) be shared with Service and/or Counsel personnel working on a case with the same taxpayer, but different audit cycle?

A.58. Yes. Dissemination among Service and/or Counsel personnel working on a case with the same taxpayer, albeit different cycles, satisfies section 6103(h)(1)'s "need to know" standard. Any privileged material should remain privileged and not deemed waived as the recipient is in privity with the original recipient of the document.

Q.59. May taxpayer specific CCA (with or without privileged material) be shared with Service and/or Counsel personnel working on a case with a transactionally related taxpayer (to the taxpayer who is the subject of the CCA)?

A.59. Yes. Dissemination among Service and/or Counsel personnel working on a case with a transactionally related taxpayer satisfies section 6103(h)(1)'s "need to know" standard. Any privileged material should remain privileged and not deemed waived as the recipient is in privity with the original recipient of the document.

Q.60. Should industry program analysts (e.g., LMSB Technical Advisors) receive copies of the unredacted CCA affecting their respective industries or subject matter jurisdiction?

A.60. Yes. Dissemination among industry program analysts satisfies section 6103(h)(1)'s "need to know" standard. Any privileged material should remain privileged and not deemed waived. This material is necessary for industry program analysts to perform their tax administration duties of ensuring a coordinated and consistent approach in their respective industries or subject matter jurisdiction.

Q.61. Should Division Counsel Program Managers and Senior Legal Counsel receive copies of the unredacted CCA affecting their respective industries or subject matter jurisdiction?

A.61. Yes. Same rationale as number 60, above.

Q.62. May taxpayer specific CCA (with or without privileged material) be shared with Service and/or Counsel field personnel working on cases with different, untransactionally related taxpayers, which may have facts and/or issues in common?

A.62. Generally, no. The Associate office that issues the advice serves as gatekeepers for this purpose. As the originator of CCA, the Associate office determines whether the CCA should be further disseminated, based upon a section 6103(h)(1) "need to know" standard (for taxpayer specific CCA), and management's assessment that this further dissemination is the best means by which to provide assistance to other recipients. Caution should be exercised, however. Dissemination may impact the ability to protect privileged materials. Also, formal guidance, including Revenue Rulings, Revenue Procedures or Regulations, may be more appropriate to address these issues.

Q.63. May taxpayer specific CCA (with or without privileged material) be shared with Service and/or Counsel National Office personnel working on cases with different, untransactionally related taxpayers, which may have facts and/or issues in common?

A.63. Generally no. The Associate office preparing the CCA serves as gatekeepers for this purpose. The Associate office determines whether the CCA should be further disseminated, based upon section 6103(h)(1)'s "need to know" standard (for taxpayer specific CCA), and management's assessment that this further dissemination is the best means by which to provide assistance to other recipients. Caution should be exercised, however. Dissemination may impact the ability to protect privileged materials. Also, formal guidance, including Revenue Rulings, Revenue Procedures or Regulations, may be more appropriate to address these issues.

Q.64. When dissemination is permitted, may the CCA be transmitted electronically in lieu of hard copy?

A.64. No. Dissemination of the hard copy ensures that the CCA, which was actually issued (signed and dated), is the version being disseminated. At this time, an electronic version increases the likelihood of mistakes. Dissemination of the hard copy also precludes any manipulation of the actual issued content of the CCA. Security protocols, at the present time, do not permit email between Counsel and all of the Service, so unredacted taxpayer specific CCA cannot be emailed due to the presence of return information.

Q.65. May drafts of CCA be shared with the requesting office before the CCA is finalized and issued?

A.65. Drafts of the factual portions of CCA may be shared with the requesting office to ensure that the facts are accurate and complete. Generally, drafts of the legal analysis should not be shared. It is expected, however, that discussions will occur between the requesting office and the issuing office regarding the proposed legal analysis before the CCA is drafted and issued. Occasionally, a team of experts, which would include National Office and field attorneys, will work jointly on the drafting of the CCA. In such situations, complete drafts may be shared among all the participating attorneys, preferably by facsimile. Once complete drafts are shared, the request for the advice may not be withdrawn. Rather, the CCA will be completed and issued.

Q.66. May nontaxpayer specific CCA (with privileged material) issued to one field office be disseminated to other field offices within the same geographic area?

A.66. No. See Answers to numbers 62-63, above.

