

Department
of the
Treasury

Internal
Revenue
Service

Office of
Chief Counsel

Notice

CC-2003-017

May 29, 2003

Change in Pre-Review Requirements
Subject: for Collection Due Process Cases

Upon Incorporation
Cancel Date: into the CCDM

PURPOSE

The purpose of this Notice is to eliminate pre-review requirements for certain documents prepared or filed in Collection Due Process (CDP) cases. This Notice supersedes Chief Counsel Notice 2002-034 and will be incorporated into the CCDM when reissued.

DISCUSSION

Based on our further experience with issues raised in CDP cases since the issuance of Chief Counsel Notice (N) 2002-034, we have determined that routine pre-review of many CDP documents is no longer necessary. The CDP Handbook has been revised and is being released concurrently with this Notice as CC-2003-016. The revised CDP Handbook should be consulted when handling CDP cases, particularly with respect to the format and content of documents to be filed with the Tax Court.

As of the date of this Notice, only the following documents filed with the Tax Court must be pre-reviewed:

1. Motions and other Tax Court documents, including motions for summary judgment, raising novel or significant issues.
2. Briefs.

Filing Instructions: Binder Part _____ Master Sets: NO ___ RO ___

NO: Circulate Distribute ___ to: All Personnel ___ Attorneys In: all offices _____

RO: Circulate Distribute ___ to: All Personnel ___ Attorneys In: all offices _____

Other National FOIA Reading Rooms _____

Electronic Filename: CDP Cases.pdf Original signed copy in: CC:F&M:PM:P

3. Stipulated decision documents, except those involving full concession by petitioner.
4. Proposed joint motions to dismiss (see below).
5. Requests for Sanctions (under section 6673(a)(2)).
6. Responses to Requests for Sanctions against Chief Counsel attorneys.

Additionally, only those defense letters to the Department of Justice that raise novel or significant issues must be submitted for pre-review.

Please note that, as a result of this Notice, Motions for Summary Judgment and Trial Memoranda are no longer required to be pre-reviewed unless they involve a novel or significant issue.

The joint motion to dismiss (dismissal without prejudice agreed to by the parties) should not be used in Tax Court filings. Should it be determined that the facts of a case are identical to those in Wagner v. Commissioner, 118 T.C. 330 (2002) (petitioners paid the tax in full in order to pursue the liability challenge in a refund suit in district court), coordination with Branch 1, Collection, Bankruptcy and Summonses, should occur in order to determine the correct document, if any, to be filed with the Tax Court.

To assist in review, the following documents should be faxed to Technical Services Section, TSS 4510, when sending in the first matter for review in a case: (1) the CDP Notice entitling the taxpayer to a hearing; (2) the taxpayer's request for a hearing; (3) the Notice of Determination and any accompanying Appeals Case Memorandum; (4) the Petition for Review or complaint; (5) the answer; and (6) any exhibits for the pleading, motion or letter being submitted for review. The fax number for TSS 4510 is 202-622-5674.

All defense letters and Tax Court documents required to be pre-reviewed must be referred to the Technical Services Section, TSS 4510, for assignment. Submission may be made by email to mailbox TSS4510. Such email should not be marked "Private."

The mailing address for TSS 4510 is:

Technical Services Section
Room 4510
CC:PA:TSS
Associate Chief Counsel (Procedure & Administration)
1111 Constitution Ave., N.W.
Washington, D.C. 20224

Any questions concerning CDP cases and issues arising therein, including pre-review requirements, should be addressed to Branch 1, Collection, Bankruptcy & Summonses, 202-622-3610.

