

Department  
of the  
Treasury

Internal  
Revenue  
Service

Office of  
Chief Counsel

# Notice

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CC-2003-006  
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January 27, 2003

Private Letter Rulings, Technical  
Advice Memoranda, and Technical  
**Subject:** Expedited Advice Memoranda  
Upon incorporation  
**Cancellation Date:** into CCDM

Purpose:

This Notice informs Chief Counsel attorneys of procedures to follow when assisting in the submission or responding to requests for Technical Advice Memoranda (TAMs), Technical Expedited Advice Memoranda (TEAMs) or Private Letter Rulings (PLRs).

Private Letter Rulings:

In addition to the procedures set forth in the annual revenue procedure concerning PLRs, See Rev. Proc. 2003-1, 2003-1 I.R.B. 1 (January 6, 2003), and CCDM Chapter 39.6 (Chapter 32.5 in the forthcoming CCDM revision), Chief Counsel attorneys either responding to a request for a letter ruling or advising Service personnel in the Field should consider the following items.

1. Controlling facts.

Under section 10.11 of Rev. Proc. 2003-1, the National Office will send a copy of the letter ruling to the appropriate Service official in the Operating Division that has examination jurisdiction over the taxpayer's tax return. Should the taxpayer's return reporting the transaction that is the subject of the letter ruling be examined, the Operating Division will follow the letter ruling in determining the taxpayer's liability, unless the Associate Chief Counsel who issued the letter ruling revokes or modifies it. Rev. Proc. 2003-1, section 12.03. A letter ruling may be revoked or modified if there was either a misstatement or omission of controlling facts in the request for a letter ruling or if the facts, at the time of the transaction, are materially different from the controlling facts on which the letter ruling was

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based. If the Service refers a letter ruling for reconsideration based on a change in controlling facts, the referral will be handled under the TEAM procedures in Rev. Proc. 2003-2. Rev. Proc. 2003-1, section 12.03. Revocations or modifications based on a misstatement or omission of, or a material change in, controlling facts will now generally be applied retroactively. Rev. Proc. 2003-1, section 12.05.

When an Associate Chief Counsel attorney prepares a letter ruling, a best practice is to include only controlling facts. The letter ruling should exclude any facts that would not affect the determination made in the letter ruling. Including only the controlling facts will assist the Service in determining whether there has been a misstatement or omission of, or a material change in, the controlling facts, and whether to submit a request for reconsideration of the letter ruling.

In addition, after the letter ruling is issued, if a Division Counsel attorney is aware that the actual facts involved in a taxpayer's transaction do not agree with the controlling facts as stated in the letter ruling, then the Division Counsel attorney should contact the appropriate Service official in the Operating Division as well as the attorney who drafted the letter ruling. In this manner, the Division Counsel attorney may assist the Service in requesting, when appropriate, a reconsideration of the letter ruling.

## 2. Coordinated Industry Case (CIC) Taxpayers.

The Associate Chief Counsel attorney assigned to a request for a letter ruling from a CIC taxpayer should contact LMSB Division Counsel headquarters office to advise of the ruling request and the issues involved. LMSB Division Counsel will assist the Associate Chief Counsel attorney in contacting the appropriate parties in LMSB Operating Division with direct responsibility for examining the CIC taxpayer's tax returns. Early involvement by field personnel will provide them with an opportunity to consider whether they have any information to assist the attorney in responding to the request for a letter ruling.

### Technical Advice Memoranda and Technical Expedited Advice Memoranda:

In addition to the procedures set forth in the annual revenue procedure concerning TAMs and TEAMs, See Rev. Proc. 2003-2, 2003-1 I.R.B. 76 (January 6, 2003), and CCDM Chapter 39.7 (Chapter 33.2 in the forthcoming CCDM revision), the following procedures should be applied when processing TAMs and TEAMs.

## 1. CASE-MIS Assignments.

When a field office is contacted by Service personnel regarding the possibility of a TAM, the Division Counsel attorney should arrange a presubmission conference with the Associate Chief Counsel office with subject matter jurisdiction over the primary issue for the proposed TAM. The field should open a TAM-P assignment in TECHMIS and create a WLI for the responsible Associate Chief Counsel office. If the Associate Chief Counsel office is contacted directly by Service personnel regarding a proposed TAM request, the

Associate Chief Counsel office should create a TAM-P assignment, contact the responsible Division Counsel office and create a WLI for that office. The TAM-P assignment should be closed once all pre-submission work for the TAM or TEAM has been completed.

## 2. Division Counsel Involvement.

As discussed in section 11.03 of Rev. Proc. 2003-2, the Service is strongly encouraged to coordinate with Division Counsel attorneys regarding a TAM pre-submission conference. Coordination with Division Counsel is mandatory for a TEAM pre-submission conference. Early and continuous involvement by Division Counsel attorneys is recommended in all cases to facilitate the advice process. While Service personnel normally request TAMs or TEAMS, Division Counsel attorneys should always be involved. Therefore, if Service personnel contact an Associate Chief Counsel office directly with a request for a TAM or a TEAM, the assigned Associate Chief Counsel attorney should contact the responsible Division Counsel office and solicit Division Counsel involvement throughout the TAM or TEAM process.

## 3. Compliance with 60 day goal for TEAMS.

Section 15 of Rev. Proc. 2003-2 provides that Associate Chief Counsel offices will attempt to issue all TEAMS within 60 calendar days of receipt, provided that the Service and the taxpayer submit all required information in a timely manner. If, at any time during the processing of a request for a TEAM, after the pre-submission conference has been held, the responsible Associate Chief Counsel office determines that it will be impractical to comply with the 60 day time frame, additional documentation will be required as follows: The Associate Chief Counsel with jurisdiction over the TEAM request must prepare a memorandum to the Chief Counsel, requesting that the case be excluded from the TEAM procedures and processed in accordance with the TAM procedures set forth in Rev. Proc. 2003-2. The memorandum must detail the reasons for the impracticality of meeting the 60 day goal. Such reasons may include, but are not limited to, delay caused by the need for coordination with another Associate Chief Counsel office or delay pending issuance of published guidance. Prior to preparing the memorandum, the Associate Chief Counsel office must contact the requesting office and the taxpayer and seek their views on whether to convert the case from a TEAM to a TAM. In addition to the reasons for the impracticality of meeting the 60 day goal, the memorandum to the Chief Counsel must include the views of the requesting office and the taxpayer. If a TEAM is converted to a TAM, the requesting office and the Associate Chief Counsel office may agree to deadlines shorter than those applicable to TAMs, in order to process the TAM.

## 4. Published Guidance Projects.

For every TAM or TEAM request, the Associate Chief Counsel should consider whether any issues warrant a published guidance project. The assigned reviewer is responsible for making this determination and must forward a recommendation to the Associate Chief

