



July 19, 2023

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Deputy Chief, Independent Office of Appeals  
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**Re: IR-2023-101 on Improving Nationwide Access to IRS Appeals**

Dear Mr. Keyso and Ms. Askey:

The American Institute of CPAs (AICPA) is providing comments in response to Internal Revenue Service (IRS) Information Release [IR-2023-101](#), dated May 11, 2023, regarding how the IRS can improve access to the IRS Independent Office of Appeals (“Appeals”) for taxpayers who do not live near an Appeals office.<sup>1</sup>

**Background**

Since the establishment of Appeals in 1927, the IRS has provided taxpayers an avenue to administratively appeal the results of a federal tax examination.<sup>2</sup> Appeals generally considers whether to resolve federal tax controversies without litigation based on the likelihood of either the taxpayer’s or the IRS’s position prevailing in litigation. The IRS Restructuring and Reform Act of 1998 (RRA)<sup>3</sup> directed the Commissioner to restructure the IRS by establishing and implementing an organizational structure that ensured an independent appeal function within the IRS. On July 1, 2019, the President signed into law the Taxpayer First Act of 2019 (TFA)<sup>4</sup> that added section 7803(e)<sup>5</sup> to the Code. Section 7803(e)(1) establishes the IRS Independent Office of Appeals “to codify the role of the independent administrative appeals function within the IRS.”<sup>6</sup> Section 7803(e)(4), also enacted by the TFA, provides that “the resolution process [to resolve federal tax controversies] shall be generally available to all taxpayers.”

**Recommendations**

1. The AICPA recommends making Appeals conferences accessible to as many taxpayers as possible.

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<sup>1</sup> IRS News Release [IR-2023-101](#), May 11, 2023.

<sup>2</sup> See H.R. Rep. No. 39 Part I, 116th Cong., 1st Session (House TFA Report), 28-29, fn. 4 (2019).

<sup>3</sup> Pub. L. No. 105-206.

<sup>4</sup> Pub. L. No. 116-25.

<sup>5</sup> All references to “section” or “§” are to the Internal Revenue Code of 1986, as amended, and all references to “Treas. Reg. §” and “regulations” are to U.S. Treasury regulations promulgated thereunder.

<sup>6</sup> See House TFA Report, at 29.

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2. The AICPA recommends maintaining and expanding options for both in-person and remote Appeals conferences.
3. Regarding *revising or replacing the “circuit riding” policy in IRM 8.6.1.5.1.1 to expand opportunities for timely in-person conferences for taxpayers living in those states* – the AICPA suggests that taxpayers be allowed to request an Appeals conference in a state other than their state of residence, that additional Appeals offices be established in states where there are none, and that Appeals conferences be allowed in any other venue agreeable to the parties.
4. Regarding *facilitating participation at in-person conferences when taxpayers and their representatives are not co-located*, the AICPA suggests that Appeals conferences be allowed at any location agreeable to the parties, including but not limited to the taxpayer’s office, the taxpayer’s representative’s office, or other neutral venues where confidentiality can be maintained such as a courthouse conference room. Hybrid conferences should also be encouraged.
5. Regarding *best practices for conducting hybrid conferences, where some participants meet in person and others join by video or telephone*, the AICPA recommends the use of a reliable platform that is easy to use for both video and telephone participants. Additional protocols should be observed, including:
  - All participants should be identified at the beginning of the conference.
  - Government personnel unable to attend in person should always be on video except in rare circumstances.
  - It should be preferred for all parties to be on video, but even if the taxpayer cannot be on video, government personnel should still be on video.
  - The in-person participants should all be visible on camera (e.g., a wide-angle of the room or capability for the video to follow the speaker).
  - There should be an agenda for the conference that is mutually agreed upon by the taxpayer and the government before the conference.
6. Regarding *if a case must be transferred within Appeals to facilitate an in-person conference, how best to avoid substantial delay in resolving the underlying tax dispute*, the AICPA suggests that the transferred case ought to be given priority by its original filing date. A transferred case should not be sent to the bottom of the queue of the receiving Appeals office and Appeals personnel ultimately assigned the case with all of the other newly-received cases.
7. Regarding *encouraging participation in in-person and video conferences by taxpayers in historically marginalized communities or with limited English proficiency and ensuring accessibility by persons with disabilities*, the AICPA recommends that all facilities used be ADA accessible. To better and more broadly communicate the services that are available through Appeals, the IRS should work with the National Practitioner Liaison office to reach out to organizations that serve these communities.

## Analysis

Appeals conferences provide a vital way for taxpayers to present their position and reach a resolution with the IRS without having to go through litigation, which is often lengthy and expensive. As such, the AICPA recommends making Appeals conferences accessible to as many taxpayers as possible. Although there are currently over 60 Appeals offices in 40 states,<sup>7</sup> not all taxpayers are able to travel to an Appeals office to present their case in person. Further, even in cases where this is possible, time can often be saved if Appeals conferences can be conducted remotely. However, the option for face-to-face conferences should be maintained if the taxpayer so wishes.<sup>8</sup> Accordingly, the AICPA recommends maintaining options for both in-person and remote Appeals conferences. Appeals has requested comments on five specific issues.<sup>9</sup> We briefly address each of them in turn.

*Revising or replacing the “circuit riding” policy in IRM 8.6.1.5.1.1 to expand opportunities for timely in-person conferences for taxpayers living in those states.*

The Internal Revenue Manual (IRM) lists 11 jurisdictions with limited or no Appeals presence.<sup>10</sup> If the assigned Appeals Technical Employee is in a post of duty that conducts circuit riding, then circuit riding will be allowed if certain requirements are met.<sup>11</sup> Generally, there is one circuit riding location designated for each of the 11 jurisdictions, and circuit riding takes place at least quarterly, as needed by taxpayers.<sup>12</sup>

To allow the maximum flexibility for in-person conferences, taxpayers should be allowed to request an Appeals conference in a state other than their state of residence, if it would be more convenient for the taxpayer. For example, it could be that a taxpayer would prefer to select an earlier date for a conference in another state instead of having to wait for a quarterly visit to their home state as per the circuit riding schedule.<sup>13</sup> A similar situation could also arise where the taxpayer lives much closer to a neighboring state than the city in which the circuit riding visit would take place for their state of residence.<sup>14</sup>

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<sup>7</sup> IRS News Release [IR-2023-101](#), May 11, 2023.

<sup>8</sup> [AICPA’s Written Statement of Chastity K. Wilson U.S. House Ways and Means Committee, Subcommittee on Oversight September 13, 2017 Hearing on “IRS Reform: Resolving Taxpayer Disputes”.](#)

<sup>9</sup> IRS News Release [IR-2023-101](#), May 11, 2023.

<sup>10</sup> The 11 jurisdictions with limited or no Appeals presence are: Alaska, Arkansas, Idaho, Kansas, Montana, New Mexico, North Dakota, Rhode Island, South Dakota, Vermont, and Wyoming. [IRM 8.6.1.5.1.1](#) (09-25-2019).

<sup>11</sup> [IRM 8.6.1.5.1.1](#) (09-25-2019).

<sup>12</sup> *Ibid.*

<sup>13</sup> For example, a Rhode Island resident may prefer to attend a conference in the neighboring state of Massachusetts, rather than waiting for a quarterly Appeals visit to Rhode Island.

<sup>14</sup> For example, a taxpayer living in Coeur d’Alene, Idaho, which is in the far north of Idaho near the Canadian border, may find it much more accessible to travel to the neighboring state of Washington, rather than attending a conference in Boise, in the southwestern part of Idaho, where the regular circuit riding visit would occur for Idaho residents.

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Further, we also recommend that Appeals offices be established in more locations, to reduce the number of jurisdictions without an office. Additionally, we recommend that Appeals conferences be allowed to take place in any location mutually agreeable to the parties, including but not limited to the taxpayer's office, the taxpayer's representative's office, or other neutral venues where confidentiality can be maintained such as a courthouse conference room..

*Facilitating participation at in-person conferences when taxpayers and their representatives are not co-located.*

As per our recommendation above, Appeals conferences should be allowed to take place at any location mutually agreeable to the parties, including but not limited to the taxpayer's office, the taxpayer's representative's office, or other neutral venues where confidentiality can be maintained such as a courthouse conference room. Additionally, hybrid conferences should be encouraged (see below).

*Best practices for conducting hybrid conferences, where some participants meet in person and others join by video or telephone.*

When conducting hybrid conferences, a reliable platform that is easy to use for both video and telephone participants. A platform that has both video and telephone capabilities would allow taxpayers to participate remotely even if they do not have a computer or lack reliable internet access. Traditional telephone conference line services should be avoided since they do not offer video options. Also, the audio quality on traditional telephone conference lines can be inferior and make it difficult to understand what is being said.

Additional protocols should be observed for remote or hybrid conferences, including:

- All participants should be identified at the beginning of the conference.
- Government personnel unable to attend in person should always be on video except in rare circumstances.
- It should be preferred for all parties to be on video, but even if the taxpayer cannot be on video, government personnel should still be on video.
- The in-person participants should all be visible on camera (e.g., a wide-angle of the room or capability for the video to follow the speaker).
- There should be an agenda for the conference that is mutually agreed upon by the taxpayer and the government before the conference.

*If a case must be transferred within Appeals to facilitate an in-person conference, how best to avoid substantial delay in resolving the underlying tax dispute.*

In situations where a case must be transferred from one Appeals office to another, the transferred case ought to be given priority by its original filing date. Said differently, a transferred case should not be sent to the bottom of the queue of the receiving Appeals office or Appeals personnel receiving the case with all of the other newly-received cases.

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*Encouraging participation in in-person and video conferences by taxpayers in historically marginalized communities or with limited English proficiency and ensuring accessibility by persons with disabilities.*

It is important that all taxpayers have the opportunity to avail themselves of an Appeals conference, if they choose to do so. All conference locations should be ADA accessible. Further, the technologies used for video conferencing should have capabilities to serve those with disabilities. Translators should be available upon request (and with sufficient notice) or taxpayers should be able to bring their own translator. To better and more broadly communicate the opportunities and services that are available through Appeals, the IRS should work with the National Practitioner Liaison office to reach out to organizations that serve these communities.

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The AICPA is the world's largest member association representing the accounting profession, with more than 421,000 members in the United States and worldwide, and a history of serving the public interest since 1887. Our members advise clients on federal, state, and international tax matters and prepare income and other tax returns for millions of Americans. Our members provide services to individuals, not-for-profit organizations, small and medium-sized businesses, as well as America's largest businesses.

We welcome the opportunity to discuss these comments or to answer any questions that you may have. If you have any questions, please contact; Peter Mills, AICPA Senior Manager, Tax Policy & Advocacy at (202) 434-9272, or [Peter.Mills@aicpa-cima.com](mailto:Peter.Mills@aicpa-cima.com); Rochelle Hodes, chair of the AICPA IRS Advocacy and Relations Committee at (202) 552-8028 or [Rochelle.Hodes@crowe.com](mailto:Rochelle.Hodes@crowe.com); or me at (830) 372-9692 or [Bvickers@alamo-group.com](mailto:Bvickers@alamo-group.com).

Sincerely,



Blake Vickers, CPA, CGMA  
Chair, AICPA Tax Executive Committee

cc: Ms. Erin Collins, National Taxpayer Advocate, Internal Revenue Service  
Mr. John E. Hinding, Director, Specialized Examination Programs & Referrals, Internal Revenue Service