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Tax Regs in Plain English

IRS Restructuring and Reform Act of 1998

3465 - IRS Procedures Relating to Appeals of Examinations & Collections

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Section 3465

A. Provision(s) covered: RRA § 3465. IRS Procedures Relating to Appeals of Examinations And Collections. Adds new I.R.C. § 7123.

B. Background: This provision addresses concerns regarding (1) expanding the availability to taxpayers of administrative means for resolving disputes and (2) ensuring the availability of appeals officers and appeals conferences for all taxpayers.

C. Change(s): This provision requires the Secretary to establish procedures for (a) early referral of disputes from Collection or Examination to Appeals, and (b) non-binding mediation of unresolved issues at the conclusion of appeals procedures, or unsuccessful attempts to enter into closing agreements or offers in compromise. This provision further requires the establishment of a pilot program for binding arbitration of unresolved issues. This provision also requires the Service to ensure that an appeals officer is regularly available within each state, and to consider videoconferences in rural or remote areas.

D. Impact: Much of what this provision requires pertains to procedures which are already in place or are in the process of being implemented. This provision should also increase the number of administratively resolved cases and correspondingly reduce the number of noticed and petitioned cases.

E. Necessary Actions

1. Collection, Examination, and Appeals will have to develop further procedures for early referral to Appeals of unresolved issues, when requested by taxpayers, where such procedures are not already in place. Procedures will have to be developed for non-binding mediation of unresolved issues, where such procedures are not already in place. A pilot program will likewise have to be developed for binding arbitration of unresolved issues. Appeals organization will be revamped to ensure that appeals officers are regularly available in each state, and it will need wider video conferencing. The IRM will have to be revised to reflect any new or expanded procedures.

F. Other Special Comments Note that, to a degree, this provision codifies certain procedures already in existence, such as the Collection Appeals Program (with respect to early referrals to Appeals of collection issues). The Conference Report to Accompany H.R. 2676 provides, at page 291, that the taxpayer currently has procedures available for early referral of examination issues to Appeals. The Conference Report additionally provides that a mediation or alternative dispute resolution ("ADR") process is currently available in certain cases. The Conference Report provides that this section codifies existing procedures regarding early referrals to Appeals and the Collection Appeals Program, as well as existing ADR procedures, as modified by eliminating the dollar threshold.

Determinations need to be made regarding the nature of the ADR procedures within Appeals, i.e., the extent in which such procedures are adversarial and require participation by the Service and the taxpayer. To the extent that they are adversarial, new procedures must be developed to ensure adequate Service representation when its initial audit or collection actions were automated, originating in Service Centers or ACS. Determinations also need to be made regarding the scope and duration of the pilot program for binding arbitration.

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