

Administrative appeals within the IRS

Dear Reader:

If you are involved in a dispute with IRS or are currently undergoing an audit, you should be aware of your rights to appeal tax determinations within IRS. This approach tends to be less costly and formal than litigating the matter in court, and often results in satisfactory resolution of the issues involved.

You can file an appeal with the IRS Office of Appeals (Appeals) in your region if you disagree with the result of your tax examination. The appeal can be filed before you file a Tax Court petition, or even after one is filed (but before litigation). You can also file an appeal to contest certain penalties, or after rejection of a refund claim or compromise offer in a collection case. Under special procedures, you can also appeal a lien, levy, or seizure by IRS, as well as an IRS rejection of, or attempt to terminate, an installment arrangement for tax payments.

A taxpayer can request early referral of certain eligible unresolved issues from IRS's Examination Division to Appeals.

It is also possible to resolve a tax dispute through a mediation process in limited situations. The tax law requires IRS to prescribe procedures under which either taxpayers or Appeals can request nonbinding mediation on any issue that is still unresolved after the conclusion of either: (1) appeals procedures or (2) unsuccessful attempts to enter into a closing agreement or a compromise. IRS has established procedures for requesting mediation of certain issues, for cases that are already in the Appeals administrative process. If the parties do not reach an agreement on an issue being mediated, they may request arbitration for the issue if the issue meets the requirements for arbitration.

IRS also has "fast track" programs under which certain taxpayers that are already under examination can get an expedited resolution of their cases.

Arbitration is generally available for cases in which a limited number of factual issues remain unresolved following settlement discussions in Appeals. Arbitration is optional for both the taxpayer and Appeals. Either the taxpayer or Appeals may submit a request to arbitrate after consulting with the other party. Neither party may appeal the decision of the arbitrator or contest the decision in any judicial proceeding, but the decision by the arbitrator doesn't bind or otherwise control the parties for tax years not covered by the arbitration. IRS specifies issues for which arbitration isn't available. Although no formal appeal procedure exists for the denial of a request to arbitrate, a taxpayer may request a conference with the Appeals Team Manager to discuss the denial. The denial of a request to arbitrate is not subject to judicial review.

An administrative appeal can also be made by filing an application with the office of the Taxpayer Advocate. The Taxpayer Advocate or his designee can issue a Taxpayer Assistance Order based on a determination that the taxpayer is suffering or is about to suffer a significant hardship as a result of the way in which the tax laws are being administered by IRS.

What's important to keep in mind, is that there are procedures that represent a middle ground between merely giving in to IRS, or waging a costly all-out war through litigation. Please call if you wish to discuss these issues further.

