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Part 4. Examining Process

Chapter 46. LMSB Guide for Quality Examinations

Section 3. Planning the Examination (Cont. 2)

4.46.3 Planning the Examination (Cont. 2)

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4.46.3.9

Resources Available to the Team Manager

4.46.3.9.10

Specialists and Specialists' Managers

4.46.3.9.10.2 (03-01-2006)

Computer Audit Specialist

1. Mandatory Referral Criteria for CAS Assistance – IRM 4.47, Computer Audit Specialist, describes the mandatory referral criteria for Computer Audit Assistance on examinations.
2. Optimal Utilization of Computers - The use of a CAS is intended to effect the optimal utilization of computers in tax examinations.
3. Early Involvement of CAS in Planning Process - The CAS has the expertise to assist the team manager in planning the depth and scope of the examination. Accordingly, the CAS should be requested and involved in the case as early as possible in step one of the planning process for the purpose of performing a systems analysis, stratification and any other applications deemed appropriate by the CAS and team manager. CAS involvement in the planning process is recommended 90 -180 days prior to the case opening whenever possible.
4. Utilization of CAS Throughout the Examination - The CAS is LMSB's information specialist and should be used throughout the examination for advice and the application of innovative computer programs. The CAS gains familiarity with the taxpayer's financial accounting processes regarding electronic data (available files, accounting code translations, summarization of detail information, etc.) for the years under audit. Financial accounting systems, information technology systems (mainframe vs. network server platforms), internal control, etc., are areas that the CAS will usually have an adequate base of knowledge to comment on or to provide assistance. Situations may arise during the examination or additional examination areas may be discovered where further assistance may be helpful.

5. Evaluation and Reconciliation - One of the most important duties the CAS performs is an evaluation of the taxpayer's Electronic Data Processing (EDP) systems. This process identifies useful computer files and provides the CAS with invaluable knowledge of the taxpayer's computer system. It also includes reviewing internal controls which could indicate issues of potential noncompliance. An important part of this process is to reconcile the electronic files to books and returns.
6. Download of Records - CASs are able to download data for the teams to use on most cases. Most CIC cases require the combining of files, although some EDP systems are centralized. Team managers should provide full support to the CAS in the attempt to perform a systems/record analysis. Appropriate contacts within the corporation should be arranged for the CAS. The personnel available should include tax department, accounting, and data processing personnel who understand the inner workings of the data processing phase of their division. The CAS must work closely with all team members to ensure that all files appropriate and useful to the examination are identified for retention.
7. Computer Examination Applications – The CAS has knowledge of and experience with the utilization of many different computer applications that add efficiencies to the examination. Brainstorming to identify additional applications designed to solve specific problems should be encouraged.
8. CAS Work Product – The CAS examination plan, activity record and work product documentation must be included in the LMSB case file.
9. Post-Examination Critique by CAS - The CAS should be available to discuss the prior applications, suggest changes or improvements and update the Record Retention Limitation Agreement at or near the conclusion of the examination, if appropriate. This can be accomplished by having the CAS, or CAS manager participate in the post-examination critique. Also, the CAS will provide written reports on these items. This fact must be documented if the CAS is not available.

4.46.3.9.10.3 (03-01-2006)

International Examiner

1. Mandatory Referrals – IRM 4.60, International Procedures, describes the mandatory referral criteria for international examiner assistance on audits.
2. Effective Audits of Foreign Transactions - The United States tax laws that relate to overseas activity are exceedingly complex and difficult to administer. It is necessary to make full use of international examiners trained in this complex area in order for the Service to effectively audit foreign transactions.

3. International Examiner Involvement in Audit Planning - IRM 4.60 describes the major features of the International Enforcement Program. The team manager should be familiar with this chapter which includes functional responsibilities and specific instructions for early referral to the international manager. Early involvement of the international examiner in the planning stages of the examination is essential for those cases having substantial foreign transactions. This facilitates timely development of plans for examination of issue areas peculiar to foreign operations and facilitates more timely development of international tax issues.
4. Challenges to International Tax Law Enforcement - The principal challenges to effective international tax law enforcement are the complexities of the laws involved and the difficulties encountered in obtaining records from which a proper determination of U.S. tax effect can be made. The expertise of international examiners and the availability of advice and assistance from the Office of Pre-Filing and Technical Guidance can dispel much of the mystery inherent in this area of tax law. The team manager should be fully conversant with the record keeping requirements of sections 905, 964, 6001, 6038, 6038A and 6046A and the corresponding regulations. The team manager should also be conversant with the methods for obtaining these documents from foreign countries. (See IRM 4.46.3.10, Use of LMSB International).
5. International Examiner's Work Product - The international examiner's examination plan, activity record, and work product documentation must be included in the LMSB case file.

4.46.3.9.10.4 (03-01-2006)

Engineer

1. Mandatory Referrals – IRM 4.48, Engineer Program, describes the mandatory referral criteria for Engineer assistance on audits.
2. Engineer Expertise – Today's business climate consists of specialization and rapidly changing technology. Team managers have specially educated and trained engineers as potential team members who can add value to examinations. The engineers bring education, experience, expertise, and special training to the examination. Many engineers have credentials or certifications in technical and valuation areas beyond their formal education. These credentials or certifications were earned from nationally recognized professional associations such as appraisal societies and societies of professional scientists, foresters, and engineers.
3. Engineer Involvement in Examination Planning - The engineer should be involved in the early planning stages of the examination. The engineer should have the opportunity to review all available information about the taxpayer to be examined such as the planning file, prior reports, tax returns, reports to stockholders, etc. One very important step, often overlooked or delayed, is a tour of the taxpayer's premises for the purpose of observing the physical assets of the taxpayer. The engineer is better equipped to recommend potential examination areas if these steps are taken.

4. **Engineer Resources Available on National Basis** - The engineer manager will seek assistance from other engineer teams or seek the assistance of outside experts to provide the needed expertise to the examination in situations that arise where the locally available engineering staff does not have a required specialist in a particular field.
5. **Engineer Specialist's Work Product** - The engineer specialist's examination plan, activity record, and work product documentation must be included in the LMSB case file.

4.46.3.9.10.5 (03-01-2006)

Economist

1. **Mandatory Referrals** - IRM 4.49, Economist Program, describes the mandatory referral criteria for economist assistance on audits.
2. **Need for Economist Assistance** – Economists can assist the team manager with the ever growing development of various tax avoidance schemes involving business transactions between related parties doing business in different countries. These foreign transactions raise substantial examination problems outside the traditional accounting or tax audit function.
3. **Economist Involvement in Examination Planning** - The economist should be involved in the early planning stages of the examination. The economist should have the opportunity to review all available information about the taxpayer to be examined such as the planning file, prior reports, tax returns, reports to stockholders, etc.
4. **Economist Expertise** - The economists provide economic assistance on a broad range of tax issues. Economic analysis covers issues such as valuation of intangibles, determination of transfer pricing of cross-border transactions, shipping rates, royalties, commissions, discounts and the valuation of goodwill in acquisitions.
5. **Economist Resources Available on National Basis** - The economist manager will seek assistance from other economist teams or seek the assistance of outside experts to provide the needed expertise to the examination in situations that arise where the locally available economist staff does not have a required expertise in a particular field.
6. **Economist Specialist's Work Product** - The economist specialist's examination plan, activity record, and work product documentation must be included in the LMSB case file.

4.46.3.9.10.6 (03-01-2006)

Financial Products and Transactions Specialist

1. Mandatory Referrals – IRM 4.37, Financial Products and Transactions Handbook, describes the mandatory referral criteria for Financial Products and Transactions Specialist assistance on examinations.
2. Early Involvement of the Financial Products Specialist - LMSB team managers and team coordinators should involve financial products and transactions specialists early in the examination to identify industry-related issues and to achieve uniform compliance on an industry-wide and issue basis.
3. Financial Products Specialist Expertise - Financial products and transactions specialists are revenue agents who possess broad expertise in tax law and who have been given special training involving futures, options, government securities and other financial products. They are available to assist the team by participating in the planning and examination process. These specialists understand financial terminology, operations of the markets and industry practices, as well as the varied systems of accounting and record keeping associated with financial industries.
4. Financial Products and Transactions Specialist's Work Product - The financial products and transactions specialist's examination plan, activity record, and work product documentation must be included in the LMSB case file.

4.46.3.9.10.7 (03-01-2006)

Employment Tax Specialist

1. Mandatory Referrals - IRM 4.23, Employment Tax Handbook, describes the mandatory referral criteria for employment tax assistance on examinations.
2. Overall Employment Tax Program - IRM 4.23 describes the overall employment tax program, objectives, organization and responsibilities. IRM 4.23 requires the team manager to employ a specialist familiar with employment tax problems.
3. Early Involvement of the Employment Tax Specialist – LMSB teams should involve employment tax specialists (ETS) early in the CIC/IC examination to identify employment tax issues and to achieve uniform compliance on an industry-wide and issue basis.
4. ETS Involvement in Examination Planning - The ETS is able to assist in the planning process for the LMSB examination to identify employment tax issues and is familiar with CIC/IC protocols and procedures. The ETS is responsible for preparing the employment tax examination plan and associated risk analysis.
5. Control of Employment Tax Returns - The employment tax team manager controls the employment tax returns, while the team manager exercises primary case control. The ETS works very closely with the team manager, team coordinator and other team members in all aspects of

the employment tax examination.

6. Currency of Examinations - IRM 4.46.3.6.4, Excise and Employment Tax, discusses options available to the examination team and the taxpayer when the employment tax examination is more current than the income tax examination.

4.46.3.9.10.8 (03-01-2006)

Other Specialists

1. Assigned Specialists - The various specialists previously discussed in this section are those specifically assigned or available to assist in the regular income tax examination.
2. Excise Tax Specialist -The great majority of cases in the LMSB program involve taxpayers liable for one or more different types of excise taxes. The team manager, during the initial review of the taxpayer, should determine if a taxpayer has a potential excise tax liability, and if so, a request for excise specialist assistance should be made. The Excise Tax Handbook, IRM 4.24, describes the Excise Tax Program and IRM 4.46.3.6.4, Excise and Employment Tax, requires centralized control of this area by the team manager. The initial review conducted by the team manager may fail to reveal any excise tax liability or credits claimed. The team manager, in these cases, should consult with the excise tax manager to identify possible areas of noncompliance.
3. TEGE Examinations - Employee Plans (EP) specialists are not LMSB employees. However, it is the responsibility of the team manager to refer cases with EP issues to TEGE. The EP examination must be coordinated with the income tax examination in any case selected for examination by EP specialists.
4. Pre-Filing and Technical Guidance Assistance - Technical advisors (TAs) are positions that have been established and are part of the overall network of the Pre-Filing and Technical Guidance (PFTG) program. The function of the TA is to initiate and monitor nationwide coordination of issues that cross industry lines and to provide assistance on these issues to examination teams. Information regarding the TA program can be found at IRM 4.40, Technical Advisor Program.

4.46.3.9.11 (03-01-2006)

Outside Experts

1. Overview - The Outside Expert Program (OEP) provides access to outside expert witnesses and services on a contract basis. The services of the outside experts are justified in special situations such as cases involving high impact precedent setting issues, high dollar unagreed issues, high impact compliance issues, and significant issues where in-house expertise is limited or not available.

2. Management and Oversight - Oversight for the LMSB Outside Expert Program is provided by the Deputy Director of the LMSB Field Specialists and by a Budget Committee composed of representatives from each of the LMSB Industries and Programs. National management and coordination of the LMSB Outside Expert Program is delegated to a Management and Program Analyst working out of the LMSB Field Specialist Headquarters Office.
3. Early Identification of Need for Outside Expert Assistance - Team managers are encouraged to identify outside expert needs and submit requests as soon as possible. This would include identification of outside expert needs during the early planning phases of an examination. Area Counsel is available to assist in determining whether an outside expert is needed and can provide assistance with identifying an appropriate expert.
4. Area Counsel and Technical Advisor Involvement – Area Counsel and Technical Advisor involvement are required when the estimated cost of an outside expert is \$50,000 or more. The team manager must obtain a written recommendation from Area Counsel stating that Counsel concurs with the need to hire the outside expert at the Examination level. A similar written recommendation from the Technical Advisor is required.
5. Requesting Outside Expert Assistance - All requests for LMSB outside expert funds require preparation of an "LMSB Outside Expert Pre-Approval Worksheet" . Requests are submitted through the Engineer Managers to the Engineer Territory Managers if the estimated cost is less than \$ 100,000. LMSB requests with an estimated cost of \$ 100,000 or more are submitted through the Engineer Territory Manager to the LMSB Outside Expert Budget Committee. A copy of the Pre-Approval Worksheet and LMSB Outside Expert Program procedures can be found on the Engineer web site under " Programs" . Procedures for requesting outside experts are posted on the Engineer Program website under" Programs" .
6. Engineer Manager Responsibility -The Engineer Manager will determine if outside experts should be used at the examination level for assistance on issues associated with LMSB audits. The Engineer Manager must determine if qualified in-house experts are available to work the subject issues prior to recommending procurement of an outside expert to maximize the benefits from the Outside Expert Program within current budgetary constraints.
7. Deciding whether to Request Outside Expert Assistance - Some key factors that should be considered when requesting outside expert assistance include the following:
 - A. Available in-house experts;
 - B. Strategic and Industry initiatives impacted;
 - C. Compliance impact;

- D. Tax revenue impact;
 - E. Significant emerging issues; and
 - F. Litigation potential
8. Technical Contact Person Required - Every outside expert case should have a specialist assigned as the technical contact. As the technical contact, the Engineer will be primarily responsible for the oversight of all OEP aspects of the issue. This includes:
- A. Initial issue identification,
 - B. Identifying the scope of work,
 - C. Identification of qualified experts,
 - D. Preparation of the statement of work,
 - E. Oversight of the outside expert's in process work,
 - F. Meeting with outside expert and taxpayer,
 - G. Review of outside expert's draft and final report, and
 - H. Preparation of a specialist report to accompany the outside expert's report (when necessary).
9. Purpose of Technical Contact Person - The purpose of the specialist as the technical contact is to ensure and enhance the quality of the outside expert's work product. An additional benefit of the technical contact is to enhance the specialist's understanding of the issue by working more closely with the outside expert.
10. Contracting Officer's Technical Representative (COTR) – Treasury regulations require the assignment of a COTR to requisitions that cost \$100,000 or more. The COTR assigned to the case will be available to guide the technical contact with the above identified tasks as well as perform all the other necessary COTR functions (such as preparing budget requests, Request Tracking System (RTS) entry, accepting invoices, etc.). The COTR may also be the technical contact on the case and will then be responsible for the duties of both the COTR and the technical contact. Federal Law requires certification and periodic recertification as a COTR with formal training in Federal Acquisition Regulations.

11. Engineer Manager's Timely Review of Requisition Packages - The Engineering Manager who directly supervises the COTR is required to timely review the outside expert requisition package for completeness and accuracy of documentation prior to submission of the requisition to Procurement.

12. COTR and Technical Contact Person Time – Specialist and COTR time related to the procurement of and management of a specific outside expert contract is case related Direct Examination Time (DET). Time requirements associated with the processing and management of an outside expert requisition will vary from case to case and can include all or some of the types of activities listed below:
 - A. Determination of when outside expert consulting services are appropriate;
 - B. COTR Certification and recertification;
 - C. Requesting funding for contracts and services;
 - D. Federal Acquisition Regulations training;
 - E. COTR Certification and recertification;
 - F. Preparation of program monitor reports;
 - G. Preparation of requisition packages;
 - H. RTS input of the Request for Services;
 - I. Preparation of statements of work;
 - J. Determination of contract requirements and specifications
 - K. Identification and specification of work standards, such as, Uniform Standards of Professional Appraisal Practices (USPAP) and Rev. Proc. 59-60;
 - L. Identification and specification of work standards, such as, Uniform Standards of Professional Appraisal Practices (USPAP) and Rev. Proc. 59-60;
 - M. Conducting market surveys;
 - N. Identifying and recommending experts;

- O. Coordinating with Area Counsel and other Service personnel as needed;
- P. Coordinating with AWSS Procurement Contracting Officers;
- Q. Obtaining certifications of nondisclosure from nonService personnel prior to contact;
- R. Interviewing of potential contractors;
- S. Reviewing the draft and/or final written contractor report(s);
- T. Accepting or rejecting the contractors' final product;
- U. Processing invoices and receiving reports;
- V. Determining, with the assistance of Area Counsel, if conflicts of interest exist,
- W. Evaluating the performance of contractors for future work considerations; and
- X. Preparing technical evaluations of contractor proposals during bid process.

4.46.3.9.12 (03-01-2006)

Assistance and Support

1. Overview - Resources are available from outside the primary group to complete LMSB examinations of subsidiaries, branches, or divisions in remote locations or other industries. Team managers should secure assistance or support resources for each case that warrants examination work in locations other than the primary group location or industry. Agents and specialists providing assistance or support work will be full participating team members.
2. Assistance - An assistance examination is where examiners from the same industry (usually in a different location) are included in the examination of a division or subsidiary of the primary case.
3. Support - A support examination is where examiners from a different industry (usually in a different location) are included in the examination of a division or subsidiary of the primary case.

4.46.3.9.12.1 (03-01-2006)

Team Resources Beyond Primary Group

1. Use of Resources Outside the Primary Group - The use of resources outside the group where the case is assigned is an important and unique feature of LMSB. This concept allows the team manager to utilize special talents on a Service-wide basis to meet the needs of the examination. A

team member's knowledge, including the knowledge of assisting or supporting team members outside of the primary group, of local conditions or an industry, brought together with the team manager's knowledge of the overall case, provide the most effective examination team.

2. **Assistance Team Members** - Assistance team members are revenue agents or specialists who are assigned to a case in the same industry as the primary case, but are located in an examination group that does not have primary responsibility for control of the case. Team members providing assistance can be located in the same or a distant geographic area.
3. **Support Team Members** - Support team members are revenue agents or specialists who cross industry lines to provide expertise or staffing needs to a case assigned to another industry. Support team members may be located in the same or a distant geographic area.
4. **Operations Located Outside the Organization or Geographic Area of the Primary Case** - Industry and coordinated industry cases frequently have subsidiaries, divisions, branches and/or plants located in geographical areas other than the primary case location. Examination of various segments of a case can be accomplished from a single location or multiple locations.
5. **All Segments of a Case Should be Reviewed and Examined as Needed** - The team manager must determine whether examination work would be most effective if performed in the remote locale. Team managers should avoid traditional practices which adversely affect the examination, such as:
 - A. Shipping records from operating business units to the headquarters location, thereby eliminating the opportunity to observe local operations or to make inquiries of taxpayer's on-site personnel; and
 - B. Routinely accepting the taxpayer's statements that there are no local personnel available to service the information needs of the assistance or support agent(s).
6. **Consider Prior Audit Use of Assistance or Support** - The primary team manager will consider comments from prior post-examination critiques in determining assistance or support needs for a case.
7. **Primary Team Manager Involvement and Effectiveness of the Examination** - The effectiveness of an examination bears a direct relationship to the degree of involvement by the team manager. Primary team manager involvement with assistance or support team members at the examination site is imperative to the conduct of a quality examination. His or her involvement facilitates better communication between assistance and support team members, the taxpayer, and the primary team. Team manager involvement and knowledge are paramount to a streamlined LMSB examination process.

8. Team Manager Visits to All Case Examination Sites - Team manager visits to all case sites are encouraged as a means to:
 - A. Obtain the assistance or support group's continued commitment to a quality examination at the agent level and management level;
 - B. Provide first hand knowledge about examination progress which will serve as the basis for making timely modifications to the examination plan;
 - C. Resolve major problems that develop during the examination; and
 - D. Demonstrate the importance of the assistance or support personnel as a viable part of the examination team.

4.46.3.9.12.2 (03-01-2006)

Use of Assistance or Support vs. Primary Group Personnel

1. Methods for Assistance or Support Examinations - The team manager must determine the most efficient method of examining entities located outside of the jurisdiction of the primary group. Factors which favor the use of assistance or support personnel are:
 - A. Substantial staff days are planned to examine the entity.
 - B. The assistance or support examination requires use of personnel with local knowledge
 - C. Records are maintained outside the primary examination location.
 - D. In-depth probes are planned.
 - E. Resolve major problems that develop during the examination; and
 - F. Voluminous records are maintained at the assistance or support site.
2. Site Facility Visits - The team manager may find it necessary to visit the facility in question in order to determine whether an assistance or support role is warranted. The team manager may, in lieu of a personal visit:
 - A. Arrange to have a team manager in the local area visit the facility to determine what is available for on-site examination; or
 - B. Schedule an exploratory assistance or support role for the current or subsequent

examination.

3. Other Options to Assistance or Support Examinations - Conducting the examination from the location of the primary group is another option available to a team manager. (See IRM 4.46.3.9.12.8, Primary Team Traveling to Other Geographic Areas for additional guidance.)

4.46.3.9.12.3 (03-01-2006)

Requesting Assistance or Support Staffing

1. Prepare Form 4485, LMSB Request for Assistance or Support Resources, 120 Days In Advance - Form 4485 will be prepared for each case when needs outside the primary group have been identified. Form 4485 should be prepared and routed at least 120 days prior to the start of the examination.
2. Forwarding Form 4485 Related to Needs within the Assigned Industry- Form 4485 identifying needs within an industry will be forwarded through normal routing channels to the territory manager most likely to provide needed resources.
3. Forwarding Form 4485 Related to Needs Outside of the Assigned Industry - Form 4485 identifying needs outside the assigned industry will be forwarded through normal routing channels to the Director of Field Operations of the other industry.
4. Only One Form 4485 May Be Required - Only one Form 4485 per case should be prepared for each geographic area. Multiple entities belonging to the same case unit and requirements for different skills can be set out in one request.
5. Unusual Requirements or Skills Should Be Identified in the Form 4485 - Form 4485 should contain information about any unusual requirement or special skills needed.
6. Response to Form 4485 Required In 10 Calendar Days - Groups receiving Form 4485 will respond to the originator within 10 calendar days of receipt with an information copy to the originating and receiving territory managers.

4.46.3.9.12.4 (03-01-2006)

Assignment of Resources

1. Supporting Territory Manager - The assisting or supporting territory manager should assign the Form 4485 to a team manager with resources in the identified geographic area.
2. Assistance or Supporting Team Manager Will Contact Primary Team Manager - The primary team manager will be contacted by the assistance or support team manager to properly plan the

examination and provide the type of personnel needed.

3. Team Managers Agree On Scope of Requested Assistance - Team managers will share information and reach agreements on:
 - A. When and what to expect in the way of a plan from the primary team manager;
 - B. What planning will be expected to each team member;
 - C. Location of work;
 - D. Flexibility of starting or completion dates;
 - E. Advisors or special skills needed;
 - F. Planned visits by primary team manager.
4. Coordination with Assistance or Support Territory Manager - The assistance or support team manager should advise his or her territory manager of the resources needed for the examination and the leadership to be expected from each team manager based on the shared information and agreements reached.
5. Direct Communications between Assistance or Support Team Member and Primary Team Manager - The assistance or support team manager will arrange for direct communications between the primary team manager and designated team member once the team member is assigned.
6. Modification to Requested Assistance or Support - Circumstances may require modifications to previously approved resources. The primary team manager should immediately modify existing commitments by memorandum or an amended Form 4485, LMSB Request for Assistance or Support Resources, when this occurs. Assistance or support groups will be notified of changes in start or end dates, staff needs or time requested, as soon as those changes are decided.
7. Requests for Modifications from Assistance or Support Group - Changes in requested resources may result from inquiries or suggestions from the assistance or support group. These may be changes to start dates, the number and type of examiners needed, examination time, examination plan preparation, follow-up procedures, or other pertinent matters.
8. Assistance or Support on Entities Not Previously under the Control of the Primary Team Manager - Assistance or support managers will be consulted during the planning process when the current examination involves an entity previously under the control of another manager.

4.46.3.9.12.5 (03-01-2006)

Use of Assistant Team Manager

1. Assistant Team Manager - An assistant team manager may be designated for significant examinations that would benefit from local, on-site supervision. Some conditions which may warrant an assistant team manager are:
 - A. A CIC case that consists of several very large entities in different locations;
 - B. More than one team is required to complete the examination;
 - C. Support group or assistance work involves a number of team members whose efforts should be closely directed and coordinated; or
 - D. Support or assistance staff days are 200 days or more.
2. Assistant Team Manager Functions - Some of the principal ways in which assistant team managers should function are:
 - A. Assisting in the selection and orientation of team members under their supervision;
 - B. Assisting in planning that part of the examination they are to direct;
 - C. Making on-site visits;
 - D. Making decisions regarding the examination plan within the scope of their delegated authority; and
 - E. Evaluating team members under their supervision.
3. Written agreement - On-site supervision involves a delegation of team manager authority. It is desirable to set out in writing what is expected of the assistant team manager. Team managers should keep in mind that although they are delegating authority, they retain overall responsibility for examination results.

4.46.3.9.12.6 (03-01-2006)

Communication

1. Form 4485 Does Not Communicate Complete Details - Form 4485, LMSB Request for Assistance or Support Resources, identifies resource needs and facilitates assignment of

resources. Information provided initially is not expected to contain complete details as to what is needed of each team member or specialist. Assignment of the request opens a channel of communication between the assistance or support team and the primary team. Communication will be essential to perfect the role of distant team members.

2. Need for Additional Communication - Efficiency of teamwork depends upon communication, cooperation and commitment between the primary team manager and assistance or support group personnel. The rapport needed can be firmly established by the primary team manager if:
 - A. Resource requests are timely and realistic.
 - B. Assignments are clearly defined.
 - C. Special instructions are complete and understandable.
 - D. Personal involvement is constructive.
3. Support or Assistance Communications with the Taxpayer - It is critical for the support or assistance team member to include the primary team manager or primary team coordinator in discussions with the taxpayer.

4.46.3.9.12.7 (03-01-2006) Follow Up on Support

1. Open Communication – Communication channels must remain open at all times between the assistance or support team and the primary team.
2. Use of Periodic Calls between Primary Team and Assistance or Support Team - Periodic calls to the distant team to discuss progress of the examination plan and any changes in start dates will permit the assistance or support team to plan its work more effectively.
3. Visits to Assistance or Support Teams - Visits to assistance or support teams during the planning phase may be warranted. The complexity and overall importance of the assignment may determine the need for visits prior to the opening conference. Refer to IRM 4.46.3.9.12.8, Primary Team Traveling to Other Geographic Areas, below, when planning these visits.
4. Changes In Time and Planned Starting Dates Must Be Communicated to Assistance or Support Team - The primary team manager should be constantly aware of the need to keep the distant team currently advised regarding changes in time requested and planned starting dates.
5. Requests for Additional Assistance or Support Time – Requests for additional time will follow

the same procedures and approval as required for the original request. This includes submission of a new Form 4485, LMSB Request for Assistance or Support Resources.

4.46.3.9.12.8 (03-01-2006)

Primary Team Traveling to Other Geographic Areas

1. Primary Team Visits to Assistance or Support Audit Site - The primary team manager, in certain instances, may find it more advantageous to send primary team members to other areas to make on-site examinations or to assist a distant agent. Factors to be considered in this respect include the following conditions:
 - A. Minimal examination by the primary team would be required where data and records are fragmented between the primary audit location and a distant taxpayer location.
 - B. Unusual accounting systems closely integrated with the parent system would require a team approach in conducting the on-site examination. One of the primary team members would work with the assistance or support agent in the conduct of the out-of-area examination.
 - C. The primary team has completed a significant portion of the examination on a particular subdivision at the primary audit site and then needs to follow up on specific areas in distant locations.

4.46.3.9.13 (03-01-2006)

Collateral Activity

1. Collateral Activities Are Limited in Scope - Collateral activity is the performance of work of short duration, work that does not require the examination of books and records, and work that calls for little independent judgment or conclusions. For example, a collateral activity would be justified where:
 - A. An interview is required to get specific information for the team manager.
 - B. A document is to be obtained.
 - C. A transcript of an account or a listing of invoices is needed.
 - D. A summons needs to be served.
2. Requests for Collateral Assistance - Requests for collateral assistance should be routed through appropriate Directors of Field Operations or territory managers so that upper management is

informed of this type of examination activity.

4.46.3.9.14 (03-01-2006)

Criminal Investigation Participation in LMSB Examinations

1. Overview - This section discusses the role of Criminal Investigation (CI) in the development of LMSB examination plans and procedures to follow if fraud is detected in LMSB cases.

4.46.3.9.14.1 (03-01-2006)

Criminal Investigation Participation

1. Information in Criminal Investigation Files - CI files may contain helpful information about:
 - A. Current fraud schemes
 - B. Techniques for probing fraud areas
 - C. Evidence of questionable practices surfacing in particular industries
2. Training Available From CI – CI agents may be available for training sessions on interviewing techniques and other topics of a general nature related to its work. These sessions may be accomplished during group meetings or in continuing professional education classes.
3. In-Depth Probes – CI is the team manager’s prime source of information for planning in-depth probes. CI may have information on successful techniques for penetrating unusual practices designed to conceal the facts about transactions.

4.46.3.9.14.2 (03-01-2006)

Criminal Investigation Coordinators

1. Designation of CI Coordinators - The Special Agent in Charge (SAC), CI will designate a Fraud Specialist as the local CI coordinator to interact with LMSB and the other operating divisions. This specialist has the responsibility for assisting LMSB in the identification of information of interest to the LMSB agent.

4.46.3.9.14.3 (03-01-2006)

Joint LMSB Criminal Investigation Planning Procedures

1. Copy of LMSB Annual Plan To Be Provided To CI - LMSB headquarters should furnish CI a copy of the annual plan listing the CIC examinations to be started in the ensuing fiscal year. This

will provide time for CI to compile information which may be useful in examination planning.

2. Team Manager's Initial Contact with CI - The team manager should contact the CI Fraud Specialist during the initial planning phase of each CIC examination to determine what information and assistance is available to identify areas for an in-depth probe.
3. CI Participation Is Limited – CI participation in planning the examination will be limited to pre-contact assistance.

4.46.3.9.15 (03-01-2006)

Special Examination Features and In-Depth Probes

1. In-Depth Probe Defined - An in-depth probe is a penetrating examination concentrated in a selected account, activity or transaction to determine the accuracy and proper reporting for tax purposes.
2. In-Depth Probes Are "Special Examination Features" – An In-depth probe is called a "special examination feature" when included in an LMSB examination plan.
3. Multiple In-Depth Probes -The team manager, depending on the facts and circumstances for each LMSB case, may want to identify one or more in-depth probes to be included as a special examination feature. The examination plan should provide specific instructions regarding the scope and depth of the probe(s).
4. Control and Purpose of In-Depth Probes -The team manager, in selecting the in-depth probes to be included and identifying the procedures to be used, should keep in mind the purpose of the probe, depth to be achieved, and how the probe is to be controlled.
5. Concurrent In-Depth Income Probes of Shareholders and Partners - An apparent understatement of income for a corporation or other business entity may require a concurrent in-depth examination of the related shareholders or partners. Refer to IRM 4.10, Examination of Returns, for a discussion of in-depth examinations of income and for guidance when using indirect methods of reconstructing income.

4.46.3.9.16 (03-01-2006)

Procedures when Fraud is Indicated

1. Fraud Referral Required - The team manager will follow fraud referral procedures when indications of fraud are discovered during an LMSB examination. Fraud then becomes the controlling factor.

2. Indications of Fraud in Subsidiaries of an LMSB Taxpayer – The examination of an entity may be split from the case and jurisdiction transferred to CI if fraud is indicated in a subsidiary or branch of an LMSB taxpayer. The examination of the other related entities may continue as planned.

4.46.3.9.16.1 (03-01-2006)

Fraud Affecting Third Parties

1. Indications of Fraud by Third Parties - In-depth probes may turn up indications of fraud by third parties being examined under the control of the team managers. Team managers will follow regular fraud referral procedures if indications of fraud by third parties are found. See IRM 25.1, Fraud Handbook.
2. Discontinuation of Coordination of Third Party Examinations - Team managers should discontinue coordination of the third party examination if there are indications of fraud unless there appears to be good reason for retaining control.
3. Continuation of LMSB Examination After Discovery of Indications of Third Party Fraud – Team managers should continue the LMSB examination and maintain close coordination with the Criminal Investigation manager having responsibility for the fraud investigation of the third party.

4.46.3.9.17 (03-01-2006)

Technical Guidance

1. Technical Guidance Available to the LMSB Examination - Assistance is available from LMSB's Pre-Filing and Technical Guidance program, including available Technical Advisor assistance related to LMSB examinations. Technical guidance has been established to ensure uniform and consistent treatment of issues nationwide and to provide better identification and development of issues.

4.46.3.9.17.1 (03-01-2006)

TA Assistance in Planning the Examination

1. Early Involvement of Technical Advisors - The LMSB Planning Process (the five step process), requires that the technical advisor (TA) be contacted in all identified CICs. This is also recommended for ICs having business activities in an identified industry. It is essential that this contact be made by the team manager as early as possible in the planning process.
2. Technical Advisor Attendance at Planning and Orientation Sessions - The team manager should invite the TA to attend the planning meeting and appropriate orientation sessions conducted by

the taxpayer if the TA's involvement in the case will be significant.

3. **Technical Advisor Assistance in Planning the Audit** - The TA will provide the team manager with information relative to a particular industry or issues that will be helpful in setting the scope and depth of the examination. The team manager should be aware of the TA's role in emerging issues and other controlled issues for TAs. See IRM 4.40.3, Coordinated Issues and IRM 4.51.2, LMSB Administrative Guidance. This will include:
 - A. Identification of unique industry issues and coordinated issues;
 - B. Discussion of economic conditions in the industry;
 - C. Description of accounting or business practices peculiar to the industry;
 - D. Suggestions for examination procedures;
 - E. Recommendation of computer programs which may have potential application, etc.
4. **Technical Advisor Workload** - It is recognized that a TA may not be able to personally assist in every examination plan, but he or she will attempt to participate in as many cases as possible. Alternative means of involvement should be considered in cases where the TA cannot participate in the planning meetings and decisions. Alternatives can include:
 - A. Telephone conferences with the team manager and key team members;
 - B. Development and distribution of information via the TA website;
 - C. Other methods designed to identify industry issues, potential high risk areas, suggested examination procedures, etc.
5. **Team Manager/Team With Limited or No Industry Experience** - The TA is expected to play a more active role in assisting in the development of the examination plan in those situations where team managers or teams are assigned a case in which they have limited or no industry experience.
6. **Other Factors Affecting Extent of Technical Advisor Involvement** - The extent to which the TA is involved in a particular case will be determined by factors such as the size of the industry, time available and particular case circumstances.
7. **Issues Can Transcend Industry Lines** – Team managers should keep in mind that many issues transcend industry lines. Technical Advisors will assist in ensuring that consistent treatment is accorded to all taxpayers irrespective of their industry designation

4.46.3.9.17.2 (03-01-2006)

Technical Advisor Assistance during the Examination

1. Coordinated or Other Issues with Broad Application - Questions will arise relative to various issues during the examination of a LMSB case. The team manager will contact the TA when the question involves a coordinated issue or other issues which have broad application.
2. Technical Advisor's Knowledge of Issues – Technical advisors are in a position to serve as a valuable source of information for the team manager because of their responsibility to maintain a current knowledge of problem areas and issues within their area of expertise.
3. Coordinated Issues Must Be Considered and Developed - Identified coordinated issues must be considered and developed by each team.
4. Technical Advisor Concurrence on Presentation of Coordinated Issues - The team manager is required to provide the TA with a copy of the Form 5701, Notice of Proposed Adjustment, after development of a coordinated issue, but before proposal of the issue to the taxpayer. The issue proposal will be furnished to the taxpayer following receipt of the TA's concurrence.
5. Deviations to Policies Associated with Coordinated Issues - The team manager, in isolated situations, may decide with the concurrence of the TA not to pursue a coordinated issue in a particular examination. The request for the TA's concurrence will include a comprehensive discussion of the rationale for the decision. Team managers may propose resolution of coordinated issues that deviate from the coordinated position with the concurrence of the TA and the TA's Manager.

4.46.3.9.17.3 (03-01-2006)

Technical Advisor Participation in Post-Examination Activities

1. Providing Technical Advisors with a Copy of the Post-Examination Critique – The team manager, upon request from a TA, will provide a copy of the post-examination critique report to the TA if one is available.
2. Technical Advisor Participation in Critique Meetings - TAs may participate in critique meetings with the taxpayer or the examination team in selected situations. Those situations will be determined through mutual agreement of the TA and the team manager.

4.46.3.9.17.4 (03-01-2006)

Responsibilities of the Technical Advisor and Team Manager

1. Responsibilities of the Technical Advisor - The Technical Advisor will be involved in the

planning process and the establishment of an effective communications network among managers examining cases within the TA's industry or issue area involving specific coordinated issues. Additionally, the TA will have responsibility, with the concurrence of the Industry Director, for the successful conduct of industry-wide studies and any industry-wide meetings considered necessary. Issue TAs will be available to assist in any industry-wide meetings in which their issues are determined to be significant.

2. **TA Role on Coordinated Issues vs. Noncoordinated Issues** - The TA role is different depending upon whether the TA is providing assistance with respect to a coordinated issue or a noncoordinated issue. Participation is based upon resources and materiality. TAs will be limited in what they can do for IC examiners because of shorter planned examination spans in IC cases.
3. **Responsibilities of the Team Manager** - It will be necessary for the team manager and Technical Advisors to communicate and cooperate with each other in order for the TA programs to be successful. Technical Advisors are authorized to request written status reports from team managers either on a one time or recurring basis regarding the status, development, and treatment of issues in an examination. Team managers should provide timely responses to TA requests for information. Efforts will be made by the TA to utilize documents already created for the purpose of securing information.
4. **Follow-Up Requests For Information From Technical Advisors** - TAs are instructed to route written follow-up requests for any forms, reports, etc., to the team manager.

4.46.3.10 (03-01-2006)

Use of LMSB International

1. **Request for International Team Manager Assistance** – The case team manager, in managing a multinational examination, must request the international team manager to participate in all aspects of the case management process, including the decision whether to conduct a general survey of the tax return and the preparation of the examination plan. This request should be made at the earliest planning phase of the examination.
2. **Responsibilities of the International Team Manager and International Examiners (IE)** - IEs and the international team manager will be responsible for the development and disposition of international tax issues that result from the taxpayer's transactions with, or ownership of foreign entities and foreign controlled corporations.
3. **Surveying Returns That Meet International Examination Mandatory Referral Criteria** - The domestic LMSB examiner and team manager will not survey any return that meets the International mandatory referral criteria as published in IRM 4.60, International Procedures, without concurrence from the LMSB international team manager.

4. International Procedures - Refer to the International Procedures Handbook, IRM 4.60, for more details regarding LMSB International.

4.46.3.10.1 (03-01-2006)

LMSB International Jurisdiction of Examinations of Foreign Corporation Returns

1. Foreign Corporate Asset Threshold of \$10 Million or Greater - LMSB International has jurisdiction in examining returns of foreign corporations (Form 1120F) with assets of \$10 million or greater. SBSE, Area 15, has jurisdiction over Form 1120F returns for taxpayers having less than \$10 million in assets.
2. Books and Records Located Outside of the United States - LMSB IEs have the responsibility for examining LMSB multinational corporations' returns when books and records are maintained outside of the United States.
3. Procedure for Requesting International Examiner Assistance - The Specialist Referral System (SRS) procedures (See IRM 4.60) will be used to request assistance of LMSB international examiners.

4.46.3.10.2 (03-01-2006)

Notifying the Taxpayer of Intent to Examine International Issues and Foreign Entities

1. Part I of the Examination Plan - Part I of the Examination Plan should clearly set forth the names and location of all foreign entities to be examined, including those which will be examined only from records made available within the United States. This portion of the examination plan must include the notification statement shown immediately below in Paragraph (2) of this IRM section.
2. Formal Notification To Taxpayer of Intent to Examine International Issues and Foreign Entities - Part I of the examination plan must include the following statement: "During this examination, adjustments may be recommended to your income tax liability causing an economic double taxation as a result of your various affiliates operating in foreign countries. Therefore, we suggest you advise your foreign affiliates in these countries to notify the appropriate taxing authorities about postponing the expiration of the statutory period of limitations on refunds or other tax adjustments. This procedure should not be limited to those foreign affiliates listed on this portion of the examination plan. In the event these adjustments affect the tax liability of an affiliate operating in a treaty country, you have the right to request competent authority consideration for relief from economic double taxation under Rev. Proc. 2002-52. "
3. Coordinating Foreign On-Site Examinations with the Taxpayer - The taxpayer should be asked to

advise the foreign entity of the Service's intentions to conduct foreign on-site examinations. The team manager should obtain from the taxpayer a letter confirming that arrangements for the examination have been made with the foreign entity. This letter should clearly state that books and records will be made available for examination. The taxpayer will agree to make available a corporate official or employee to assist in translating these records if necessary. The team manager should solicit the taxpayer's input on how to best secure the information from the foreign site.

4. Prohibitions on Direct Contacts with Foreign Taxpayers - Note that direct contact by the IRS examiner with individuals/entities in a foreign country may be prohibited by law, depending on the country involved. The Office of the Director, International (LMSB) should be consulted prior to making a direct contact with a foreign taxpayer.

4.46.3.10.3 (03-01-2006)

Selection of Foreign On-Site Examination Team

1. Foreign On-Site Examination Team Selection – Typically, LMSB international examiners will conduct the foreign on-site examination. There may be circumstances requiring a team for on-site examinations. The determination as to whether a foreign on-site examination team is needed will depend on the size of the entity to be examined, the scope of the examination, the need for other specialists, and whether the knowledge of home office books and records will expedite the on-site examination. The LMSB international examiner and the international team manager will coordinate with the team manager regarding the composition of the on-site examination team and the administrative aspects discussed below.

4.46.3.10.4 (03-01-2006)

Requirements Associated with Requests for Foreign Travel

1. Contact the International Travel Office - Employees should access the International Travel Office on the LMSB Website for procedures that apply to their travel situation. Those procedures should be followed by all team members who will be conducting the foreign on-site examination. These procedures generally require a memorandum, submitted through the territory, field operations and industry, setting forth:
 - A. The names of the participants and their role in the on-site examination;
 - B. Approximate dates for the examination;
 - C. The country or countries involved;
 - D. A copy of the taxpayer's confirmation letter;

- E. A narrative on the examination purpose, scope, and techniques, being specific with regard to any techniques which require dealing with other persons or organizations outside the corporate structure.
2. 75 Days Required Prior to Foreign Travel - The Industry Director or delegate will forward the memorandum request for foreign travel related to an on-site examination to the Director, International (LMSB). Allow 45 days for processing of this request if the traveler does not have a valid official passport on file, or 30 days if a valid passport is on file. The on-site examination should not be scheduled earlier than 30 workdays after the appropriate official in the Office of the Director, International (LMSB) approves the foreign travel request to allow time for administrative aspects, such as obtaining passports and inoculations.
 3. Form 1321 and Travel Authorization - An executed Form 1321, Authorization for Official Travel, is your foreign travel authorization.
 4. Requests for Expedited Approval of Foreign Travel - Contact the Office of the Director, International (LMSB) for assistance in expediting your foreign travel request if a lead time of 30 days cannot be arranged.
 5. State Department Jurisdiction and Sanction - The responsibility for actions of Federal employees in foreign countries is placed on the ambassadors of the respective countries by Presidential letter. Therefore, all official activities in foreign countries are subject to State Department sanction. The degree of authority granted by any particular ambassador for conducting activities in his or her assigned country will vary according to the conditions existing at the time in that country.
 6. IRS Official Position Grants No Official Authority in Foreign Countries - U.S. tax officials in a foreign country have no authority by reason of their position. They act solely on authority from the U.S. State Department in conjunction with the particular foreign government. A precise understanding of the scope of that authority is essential in avoiding embarrassing incidents or possible violations of foreign law or customs. It is inadvisable for agents not trained to cope with matters in this delicate area to conduct examinations in foreign countries. Infractions of foreign law or customs could foreclose future cooperation by foreign tax officials to the extent of precluding official travel by U.S. tax representatives in those countries, or even requiring the closing of the Service's foreign offices.

4.46.3.10.5 (03-01-2006)

Other Methods for Obtaining Information For Foreign Countries

1. Alternatives to On-Site Foreign Examinations - There are alternatives to on-site examinations for obtaining necessary information. These methods include "collateral requests" , "requests for

information pursuant to treaties" , and the "Simultaneous Examination Program" . These alternatives are described below.

2. Collateral Requests - Collateral request procedures may be used as an alternative to foreign on-site examinations. Collateral requests generally involve obtaining specific information, whereas, an assistance or support request involves an examination of an entity. Examples of information which may be obtained through a collateral request are:
 - Overseas interviews
 - Foreign economic and mercantile data
 - Information about accounting systems
 - Certain types of investigative work
 - Specific records of foreign entities
3. Requests for Information Pursuant to Treaties - The Manager, Office of Tax Treaties, will determine whether the requested information should be obtained by Service personnel stationed abroad or obtained through established Competent Authority procedures. These procedures are outlined in IRM 4.60, International Procedures.
4. Simultaneous Examination Program - The Simultaneous Examination Program consists of working arrangements agreed to with various foreign governments with whom the Service has income tax treaties or Tax Information Exchange Agreements (TIEAs). This program is designed to facilitate the exchange of information between treaty partners and to coordinate the tax treatment of taxpayers with activities in more than one country. The Service and the tax administration of a treaty partner agree to coordinate their examinations of related taxpayers in their respective jurisdictions under mutually agreed working agreements. See IRM 4.60 for more information on the Simultaneous Examination Program, including how to make a proposal for a simultaneous examination. A list of countries with working agreements with the United States can be found in IRM Exhibit 4.60.3-1, Income Tax Treaties.

4.46.3.10.6 (03-01-2006)

Dealing with Foreign Taxpayers

1. Foreign and Domestic Examination Activities are Similar - Conducting an examination of a foreign affiliate is done in much the same way as those performed on domestic entities.
2. Examination Activities Inside the U.S. – Most problems which arise may be disposed of in the

same way as domestic examinations. This includes obtaining relevant books and records, interviewing corporate officials, employees and witnesses who are residents of the U.S., even though they may be foreign citizens.

3. Examination Activities Outside the U.S. - Sensitive situations may develop when interviewing foreign citizens residing in foreign countries and contacting foreign government officials residing either in or outside the United States. These matters come within the jurisdiction of the Office of the Director, International (LMSB), and should be brought to its attention through the Industry Director.

Exhibit 4.46.3-1 (03-01-2006)

Joint Audit Planning and Monitoring Tool

Large and Mid-Size Business Division

Joint Audit Planning Process Planning & Monitoring Tool

Taxpayer:	Exam Year(s)
Taxpayer Manager:	
Team Manger:	POA:

Preliminary Meetings and Discussions	Comments
1. The examination team should gather publicly available information (e.g., annual reports, SEC filings, taxpayer's web site, etc.) and current transcripts to reduce taxpayer burden.	
2. Multiple preliminary meetings and other informal discussions (based upon taxpayer size, return complexity, and proposed staffing levels) should be held with the taxpayer after the examination team's initial review of the tax returns and related information regarding: <ol style="list-style-type: none"> a) Prior cycle results, to determine if areas of review can be limited or eliminated; b) Timeframes for pre-audit and initial risk analyses; c) The taxpayer's anticipated filing of claims; d) Potential industry/coordinated issues; e) New audit initiatives and general administrative procedures (i.e., LIFE, IDR procedures, issue resolution strategies); 	

<p>f) Whether the IRS or the taxpayer will prepare the schedule of rollover adjustments that results from the prior cycle;</p> <p>g) The examination team having access to the taxpayer's e-mail system to facilitate the communication of IDRs, IDR responses, records, 5701s, etc.</p>	
<p>3. The taxpayer and the examination team should advise each other of peak times, vacation plans, training, and other significant factors that may result in delays or increase burden.</p>	
<p>4. The taxpayer should provide a meaningful orientation to the IRS examination team, including a general overview of business activities (particularly if there is a new team), financials, return results and known significant changes from the prior cycle.</p>	
<p>5. The taxpayer should provide the examination team with a list of significant transactions for the cycle and any other information that is new and different from the previous cycle (acquisitions, dispositions, tax shelters, accounting method changes - Forms 3115).</p>	
<p>6. The taxpayer should provide routine start-of-audit information (significant M-1s, access to general ledger, tax workpapers, etc.) in order to reduce the number of IDRs issued.</p>	
<p>7. The taxpayer should provide financial information (such as the general ledger) in electronic format to allow the examination team to review information directly, reducing the number of IDRs issued.</p>	
<p>8. The taxpayer should deliver a list of claims and requested audit adjustments (with all supporting documentation made readily available) to allow these items to be included in the examination plan.</p>	

<p>9. The examination team should advise the taxpayer of potential examination areas/issues, or business units it plans to review based upon the initial risk analyses and review of preliminary documents (i.e., annual statements, tax returns, historical files, etc.).</p>	
<p>Involvement of Associate Office Counsel, Area Counsel, Specialists, and Technical Advisors</p>	<p>Comments</p>
<p>1. The availability of appropriate IRS and taxpayer personnel should be discussed.</p>	
<p>2. The IRS will notify the taxpayer if significant involvement by technical advisors, Associate Office Counsel, Area Counsel or specialists is anticipated.</p>	
<p>3. Arrangements should be made for specialists to meet with relevant taxpayer personnel to discuss areas to be reviewed prior to issuing IDRs.</p>	
<p>4. Coordination with Counsel, when their assistance is needed, should be made as early as possible. Contact with Associate Office Counsel should be made through Area Counsel and can be informal via telephone or email. Area Counsel can assist with requesting formal advice from Associate Office Counsel, e.g., Technical Advice Memorandum (TAM) or Technical Expedited Advice Memorandum (TEAM) or Chief Counsel Advice.</p>	
<p>5. Specialists, specialist managers, technical advisors and Area Counsel, when appropriate, will be invited to attend key issue meetings between the taxpayer and the IRS. Early involvement will provide the examination team current positions and industry issues.</p>	
<p>6. Attempts should be made to reach agreement on the facts, prior to the extensive involvement of a technical advisor.</p>	

<p>7. The Computer Audit Specialist (CAS) should have advance access to the taxpayer's electronic data. This is usually accomplished at the end of the current cycle examination, three to six months prior to the start of the next cycle.</p>	
<p>Scope of Audit</p>	<p>Comments</p>
<p>1. The examination team should consider and discuss the applicability or inapplicability of Limited Issue Focused Examination (LIFE).</p>	
<p>2. The examination team will share a copy of the draft examination plan with the taxpayer and allow the taxpayer an opportunity to provide feedback prior to finalizing the plan.</p>	
<p>3. New issues identified by the IRS during the audit process that are not in the plan should be discussed with the taxpayer prior to the commencement of extensive audit work.</p>	
<p>4. The need for support examinations and third party contacts should be considered early in the examination.</p>	
<p>5. Materiality agreements should be considered when determining the scope of the examination (whether or not LIFE applies). Since each taxpayer and each year is unique, materiality thresholds should be set on a case-by-case, year-by-year basis.</p>	
<p>6. The examination team will share subsequent risk analysis results (i.e., 50% or 75% risk analysis) with the taxpayer, indicating the scope, depth, and status of the audit with a view to reducing the number of issues (but with the understanding that the determination of which audit items to pursue rests with LMSB).</p>	
<p>7. The examination team should consider the use of statistical sampling or alternative testing methods (e.g., mutually agreed upon judgment sampling) if records are voluminous.</p>	

8. The taxpayer should discuss or provide preliminary information on issues with the intent to narrow the scope of the audit and focus on the most significant issues.	
9. The taxpayer should be informed that if issues are dropped or narrowed, additional issues will not routinely be substituted or added.	
10. The taxpayer will be advised that the examination may be expanded if tax shelters, listed transactions or similar transactions are discovered during the course of the examination.	
11. The examination team and taxpayer should jointly develop a plan to attain and maintain currency.	
Audit Timeline/Monitoring Progress	Comments
1. The taxpayer and examination team should jointly prepare a timeline with target milestone dates (i.e., exam plan completion date, 50% risk analysis review, last date for IDRs to be issued, last date for claims to be filed, last date for Forms 5701, Notice of Proposed Adjustment to be issued, RAR issuance target date).	
2. The taxpayer and the examination team should jointly plan the matching of audit issues to available taxpayer and Examination team resources to avoid delays during the audit.	
3. Microsoft Project or similar tool(s) should be used to establish and track timeline milestones and targets.	
4. The IRS and taxpayer should sign an agreement or the examination plan setting joint commitments (i.e., timeframes, materiality, IDRs, 5701s, affirmative issues, etc.).	
5. An understanding should be reached that impasses and significant concerns that cannot be resolved at the IRS team manager/taxpayer audit manager level will be immediately elevated to the next level, IRS territory manager/senior tax officer or equivalent.	

<p>6. An understanding should be reached that the team manager and the tax manager will jointly monitor the Examination and determine who will attend the regular audit progress meetings, including meetings to address the following:</p> <ul style="list-style-type: none"> • Ongoing risk analysis • Status of issues • Status of IDRs • Obstacles, anticipated delays and possible solutions • Anticipated changes to the audit timeline 	
<p>7. An understanding should be reached to record all agreements and action items (noting the responsible parties) to be completed at all IRS/ taxpayer meetings to avoid delays and misunderstandings.</p>	
<p>8. Feedback from audit participants should be collected at prescribed intervals to determine the quality as well as the quantity of progress and to suggest ways to make the on-going and following examination better. Recommended intervals include:</p> <ul style="list-style-type: none"> •The end of the planning phase •The 50% mark •The end of the examination 	
<p>Information Document Requests (IDRs)</p>	<p>Comments</p>
<p>1. An understanding should be reached that all IDRs and responses will go through the IRS team coordinator or primary revenue agent.</p>	
<p>2. An understanding should be reached that all IDRs and responses will go through the designated taxpayer representative.</p>	
<p>3. Discussions should be held prior to IDR issuance, unless agreed otherwise. The taxpayer should be informed of the intent of an IDR, and the purpose should be stated on the IDR (i.e., identify the issue).</p>	
<p>4. The Service and the taxpayer should meet to review the IDR for completeness prior to issuance of an IDR. All IDRs should be entity specific, unless agreed otherwise.</p>	

5. The taxpayer should be informed of any coordinated or industry issues under audit.	
6. The examination team should reach an agreement with the taxpayer regarding a standard response time for IDRs, and an understanding that the taxpayer will advise the examination team as early as possible if additional time is needed.	
7. The examination team should advise the taxpayer within an agreed timeframe, after receiving an IDR response, whether it considers the response complete and if additional information or action is required.	
8. IDRs should be reviewed by the team coordinator or primary agent to ensure that they are resolution-focused. (Do the questions asked add value to the identification or development of an issue?)	
Issue Resolution/Notices of Proposed Adjustments - Form 5701	Comments
1. All issues should be discussed with the taxpayer prior to the issuance of Form 5701. Consider: a) The need to reach agreement, or to agree to disagree, on the facts, b) The discussion of applicable law, c) The identification of specific areas of contention or disagreement.	
2. Timeframes should be established with regard to the issuance and response to Form 5701.	
3. An understanding should be reached with the taxpayer that Notices of Proposed Adjustment will be issued throughout the examination instead of at the end of the examination, to facilitate early issue resolution.	
4. An understanding should be reached that when issues are agreed, the examination team will utilize abbreviated proposed adjustment write-ups (Forms 5701).	
5. An understanding should be reached that the taxpayer and the examination team will engage in an earnest effort to resolve all issues.	

6. An understanding should be reached with the taxpayer that the examination team, within an agreed upon timeframe, will advise the taxpayer when an issue is closed.	
7. An understanding should be reached regarding the examination team's intentions to inform the taxpayer as early as practical that the team is considering penalties, and to afford the taxpayer the opportunity to address the penalties.	
Additional Comments:	

Exhibit 4.46.3-2 (03-01-2006)

Agenda for Planning Meeting

Planning Meeting Agenda Topics

- 1 Background of the taxpayer.
- 2 Prior examinations and results.
- 3 Status of any cycles in Appeals.
- 4 Claims filed by the taxpayer.
- 5 Prior taxpayer relationships (how cooperative?).
- 6 Review of tax returns.
- 7 Review of Annual Reports.
- 8 Review of SEC Reports.
- 9 Review of Planning File.
- 10 Review of prior RARs.
- 11 Discussion of carry-over issues.
- 12 Review of Industry Issues.
- 13 List potential issues in this cycle.
- 14 Discussion of Risk Analysis process.
- 15 Discussion of financial interest in assignments.
- 16 Review of IRM 4.46.3.7 (Resources Available to the Team Manager).
- 17 Reporting requirements for team members.
- 18 Presentations by all specialists.
- 19 Roles of the team manager and team coordinator.
- 20 What to expect during on-site visits by team manager.
- 21 List of questions and topics to discuss with taxpayer during opening conference.
- 22 Discussion of taxpayer's rights, privacy (disclosure), and unauthorized access to taxpayer's accounts.
- 23 Discussion of how third-party contacts will be handled.

- 24 Discussion of statutes – notification of taxpayer’s rights.
- 25 Discussion of privilege and tax accrual workpapers.
- 26 Discussion of Technical Advice Requests, i.e., TAMs, TEAMs (taxpayer is involved) and possible Chief Counsel Advice requests.
- 27 Discussion of STC’s requirement to provide feedback on team member’s performance if the case has a senior team coordinator.

Exhibit 4.46.3-3 (03-01-2006)

Agenda for Opening Conference

Agenda for Opening Conference

- 1 A brief discussion of the history, performance, and products or services of the taxpayer.
- 2 Information relating to changes in corporate structure (mergers, acquisitions, liquidations, or reorganizations).
- 3 A discussion of the accounting records and systems.
- 4 Location and availability of controlled foreign corporation records and the issuance of a notice advising the taxpayer to protect the statute of limitations in the foreign country, if a double-taxation issue is identified.
- 5 Discussion of tax management authority delegated to corporate entities.
- 6 Arrangements for review of all necessary workpapers, reports, corporate minutes, and other pertinent records.
- 7 Review of provisions of Rev. Proc. 94-69 as it relates to IRC section 6662.
- 8 Arrangements for the flow of information between team members and the taxpayer. A written authorization should be secured and signed by the responsible officer.
- 9 Proposed starting and closing dates for the examination.
- 10 Arrangements for necessary accommodations. (desks, chairs, telephone, dedicated phone line for computer research, FAX, and copy machine)
- 11 Discussion of Information Document Requests (IDRs) Management Process, format for requesting information, and turn around time.
- 12 Discussion of procedures for handling past due IDR responses.
- 13 Issue an IDR for any IRC section 6662(e) transfer pricing documentation in accordance with LMSB Commissioner Directive dated January 22, 2003.
- 14 Procedures to be used for the discussion of issues, use of Form 5701, Notice of Proposed Adjustment, and preparation of the

taxpayer response to Forms 5701 during the course of the examination (turnaround time).

15 Early submission of requests for technical advice, if needed.

16 Discussion of affirmative issues submitted by the taxpayer and the need to get these in early in the examination.

17A discussion of agreed and unagreed issues from the prior cycle and their effect on the current examination.

18 Notification of intent to contact third parties.

19 A discussion of taxpayer involvement in the planning process.

20 A discussion of One-Stop Service.

21 A discussion of the Service's efforts to achieve currency.

22 A discussion of issue resolution which includes:

a) Delegation Order 4-24 (formally DO 236);

b) Delegation Order 4-25 (formally DO 247);

c) Advanced Pricing Agreements; d) Early Referral to Appeals;

e) LMSB Fast-Track Process;

f) Accelerated Issue Resolution;

g) Pre-Filing Determinations.

23 Discussion of the Service's desire to resolve issues at the lowest level.

24 How ISP issues affect the examination.

25 Agreement on procedures and arrangements to interview corporate officers or other employees.

26 Discussion of "package audit requirements" related to tax liabilities of corporate officers other key executives.

27 Statute extension policy and taxpayer's rights.

28 Plans for regular meetings with taxpayer during the examination.

29 General discussion of specialist involvement (CAS, International, Engineers, Area Counsel, and others).

30 Technical Advice Requests – TAM/TEAM process available to taxpayer and possible Chief Counsel Advice request.

31 Privilege and tax accrual workpapers.

32 Periods where taxpayer may not be able to respond to IDRs and other requests by the team.

33 Support examination procedures if applicable.

34 Filing of Forms 1139 and 1120X during the examination.

35 An alternative contact person in case the primary contact is gone for more than one week.

36 Discussion of any time-line software to be used by the examination team as part of the examination plan.

37 Importance of being able to download electronic records to the

team's on-site computers.

38 LIFE Process and possibility of using LIFE.

39 Discussion of LMSB Joint Audit Planning Process.

40 Discussion of LMSB Rules of Engagement.

Exhibit 4.46.3-4 (03-01-2006)

LMSB Planning File

LMSB Planning File

A. General

B. Identification and History of Taxpayer

C. Organization

D. Reorganizations, Acquisitions, and Liquidations, etc.

E. Accounting Records and Procedures

F. Continuing Year-to-Year Analysis

G. Contracts, Documents and Agreements

H. Examination Support

I. Current Data Affecting Subsequent Years

J. Risk Analysis

K. Examination Plan

L. Reports

M. ADP & Computer Applications

N. Post-Examination Critique

O. Miscellaneous

P. Record of Examination Team Activity The planning file or folder is the single, most important document to a team manager in planning CIC examinations. Its purpose is to provide the team manager assigned to the next cycle with as much data about the taxpayer as possible so that he or she may develop an effective, efficient examination plan. The maintenance of this file requires constant updating, purging of unnecessary data, and inserting the current information so that the resulting product reflects the examination needs of the next cycle. The index shown above is the suggested indexing of the Planning File, however, team managers are encouraged to adopt any indexing system that works for them.

Exhibit 4.46.3-5 (03-01-2006)

Transfer Pricing Compliance Processes

Transfer Pricing Compliance Processes

LMSB Commissioner

Directive Transfer Pricing Compliance Processes

22-Jan-03

Documentation

1 At the joint opening conference for each audit cycle, issue a written information document request for a copy of any transfer pricing documentation prepared by the taxpayer pursuant to section 6662(e). The following language should be used to request the pricing documentation: "Please provide within 30 days of this request any principal documentation outlined in Treas. Reg. § 1.6662-6(d)(2)(iii)(B) that has been prepared. "

2 Apply the 30-day time frame provided by statute for providing a copy of any documentation prepared pursuant to section 6662(e). The discretion authorized by the regulations to excuse minor or inadvertent failures to provide required documents is limited to those situations where the taxpayer has made a good faith effort to comply and promptly remedies the failure when it becomes known, and should be exercised sparingly. With the exception of the principal documentation items described in Treas. Reg. § 1.6662-6(d)(2)(iii)(B)(9) and (10), any documentation prepared by taxpayers pursuant to section 6662(e) must be in existence when the return is filed in order to be used to meet the documentation requirement of Treas. Reg. § 1.6662-6(d)(2)(iii).

3 If, as the statute permits, the taxpayer has not prepared section 6662(e) documentation, issue a written information document request at the beginning of the audit for relevant information regarding the taxpayer's transfer pricing practices. An exception should be made only if recent experience with the taxpayer has indicated that examination of some or all transfer pricing issues is unnecessary, and there have been no major changes in the taxpayer's transfer pricing practices.

4 Follow similar processes where Industry Cases are selected for audit. Audit Planning Process

1 As soon as the taxpayer's section 6662(e) documentation or other transfer pricing information is received, refer it to an international examiner and/or economist for risk assessment.

2 If the risk assessment indicates that transfer pricing issues should be examined, include those issues in the audit plan.

3 In accordance with current IRM procedures, refrain from pursuing de minimis transfer pricing adjustments. Where the Limited Issue Focused Examination (LIFE) process is being used, the materiality thresholds and other procedures specified in IR

2002-133 (December 4, 2002) should be followed for transfer pricing issues, as for others. Section 6662(e) Penalty

1 Assert the penalties provided under section 6662(e) where warranted. Under the law, an otherwise applicable net section 482 transfer price adjustment penalty under section 6662(e)(3) may not be waived unless documentation is prepared and submitted in accordance with the requirements of the statute and regulations.

2 If the team decides to propose an adjustment that would trigger a section 6662(e) penalty, the Penalty Screening Committee must review the case before the 30- or 90-day letter is issued. (See Announcement 96-16, 1996-13 I.R.B. 22.)

3 If the penalty threshold is met but the team decides not to propose the penalty, the concurrence of the responsible International Territory Manager must be obtained. The International Territory Manager should forward a copy of relevant documentation that explains the decision to the International Penalty Technical Advisor.

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