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### Shorten Tax Disputes With IRS Fast Track Mediation

No one wants a long fight with the IRS. Sometimes, you might be able to shorten the inevitable delays and strike a deal. One possibility is under IRS [Revenue Procedure 2016-57](#), which replaces its Fast Track Mediation (from [Revenue Procedure 2003-41](#)). The new Fast Track Mediation—Collection may help resolve offer-in-compromise and trust fund recovery penalty issues. An IRS Office of Appeals mediator serves as a neutral party. The mediator is still an IRS employee, so this is not like having a judge to hear you out. Still, the mediators are trained to act impartially, and to try to solve cases so both the taxpayer and the IRS come out OK.



(AP Photo/Susan Walsh, File)

If you apply, the taxpayer and IRS Collections meet with the Appeals mediator. Each party must have at least one participant with decision-making authority present. Plus, the parties are encouraged to include individuals with information and expertise that may be useful to the decision-makers and the mediator. The Appeals mediator may ask the parties to limit the number of participants (and any other observers) to facilitate the session. The IRS says

that appropriate cases for this process include:

- Issues involving the value of a taxpayer's assets
- The amount of dissipated assets that should be included in the overall determination of reasonable collection potential
- Whether the taxpayer meets the criteria for deviation from national and/or local expense standards
- Determination of a taxpayer's proportionate interest in jointly held assets
- Projections of future income based on calculations other than current income
- The calculation of a taxpayer's future ability to pay when living expenses are shared with a non-liable person
- Doubt as to liability cases worked by Collection
- Other factual determinations, such as whether a taxpayer's contributions into a retirement savings account are discretionary or mandatory as a condition of employment

The IRS cautions that these subjects are inappropriate for its new mediation process:

- Issues requiring assessment of the hazards of litigation or use of the Appeals mediator's delegated settlement authority
- Cases referred to the Department of Justice
- Cases worked at an SB/SE Campus site
- Collection Appeals Program cases
- Collection Due Process cases
- Collection cases in which the taxpayer has failed to respond to IRS communications or failed to submit documentation to Collection for consideration

A request to mediate should be made after an issue has been fully developed, but before IRS Collections has made a final determination. A Form 13369, Agreement to Mediate, must be signed by the taxpayer and the IRS collection group manager to start. Both the taxpayer and IRS Collections are given the chance to present their position. The Appeals mediator may also ask either party for additional information. The Appeals mediator can terminate or postpone the session if: (a) either party presents new information or new issues during the mediation session; (b) the taxpayer wishes to submit a

substantial amount of additional documentary information; (c) the taxpayer wishes to present new witnesses, including experts; or (d) for other good cause.

The Appeals mediator may recommend a possible resolution of one or all of the issues based on the Appeals mediator's analysis of the issues. Any recommendation made by the Appeals mediator does not bind the parties, and is not a decision regarding any issue in dispute. At the conclusion of the mediation, the Appeals mediator prepares a brief written report. A copy of the report is provided to the taxpayer and the Collection Group Manager at the end of the mediation. If the parties resolve any of the disputed issues, Collections will secure the appropriate closing documents from the taxpayer and close the case. If the parties do not reach an agreement on a mediated issue, the taxpayer still has the usual opportunity to request a hearing before IRS Appeals through the traditional Appeals process. In that sense, it could be another bite at the apple.

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