

# How to Work with IRS Management to Resolve IRS Field Specialist Issues

By Michael Gregory

**Editor’s Note:** As a recently retired territory manager with the Internal Revenue Service’s Large Business and International Division, Michael Gregoy had an opportunity to see how in-house tax professionals and their advisers worked with the IRS Field Specialists to resolve issues. A trained mediator with 12 years of experience, he worked with IRS Industry Revenue Agents and Field Specialists, their front-line managers, Territory Managers, and IRS executives. In this article, Mr. Gregory offers insights into the IRS rules of engagement and suggests an informal process of using Field Specialist Managers and Territory Managers with their industry counterparts to resolve Field Specialist examination issues. The views expressed in this article are Mr. Gregory’s and do not represent the views of the IRS or of Tax Executives Institute.

## IRS Rules of Engagement

IRM 4.51.1 captures the formal commentary regarding the rules of engagement for what was Large and Mid-Size Business Division (LMSB) and what is now LB&I. IRM 4.51.2 indicates the purpose of the rules of engagement are to “Clarify individual roles, responsibilities and lines of authority to 1) Help ensure end-to-end accountability, and 2) Provide clear procedural guidance on how to manage tax case interactions; Facilitate getting to the right answer for a particular case or issue; Promote consistent tax treatment between

similarly situated taxpayers or cases; and Reinforce the importance of integrity and ethical behavior in all case-related decision making”. This article focuses on the day-to-day interactions and issue resolution approaches in “typical” large cases when there appears to be a breakdown in communication with the IRS team focusing on Field Specialist issues.

The IRM formally defines the roles of the team manager, technical advisor, and specialist leadership as set forth in the accompanying chart (Figure 4.51.1-1).

**Figure 4.51.1-1**  
Differentiated Roles of LMSB Leaders

Team Manager	Technical Advisor	Specialist Leadership
Identify emerging issues and provide support to develop them	Determine cases under audit	Mentor and coach specialist at all levels
Communicate industry and emerging issues to team	Notify Industry Director of significant cases	Promote issue resolution at case level
Provide updated industry and emerging issues to team	Communicate with CIC and IC agents regardless of industry alignment	Identify and communicate with Industry Leadership on possible emerging issues and provide support to develop them
Identify industry and emerging issues in the audit plan	Provide teams with timely updated information	Ensure that field team and specialists operate as a team
Ensure review of Technical Advisor Web site	Maintain mailing list for employees working industry and emerging issues	Help identify and develop best practices
Contact Technical Advisor in early stages of audit process	Contact teams with industry and emerging issues	Support resource allocation decisions with respect to compliance strategy

Team Manager	Technical Advisor	Specialist Leadership
Discuss with Territory Manager industry and emerging issues	Provide value added input to team	Ensure specialists receive industry training as it relates to case assignments
Ensure examiners receive industry-related training	Develop and maintain auditing guidelines and techniques	Promote and ensure Issue Management Strategy implementation
Communicate with taxpayer on industry and emerging issues and provide support	Communicate with the team in the early stages of audit	Contact point for external specialist associations
	Be part of the team and ensure timely resolution of issue	Assist team leadership as appropriate in resolution of significant issues
	Ensure that Tier I and Tier II issue are identified, coordinated and properly developed in accordance with guidance from Issue Owner Executive(s).	Secure expertise outside field team and beyond territory
	Work with Issue Owner Executive(s) and Line Authority Executive(s) as necessary to reinforce consistent treatment of similarly situated taxpayers with respect to specific issues.	Facilitate positive relationship with taxpayer

**Figure 4.51.1-2**  
Differentiated Roles of LMSB Leaders

Territory Manager	Director Field Operations	Industry Director	Commissioner/Deputy
Mentor and coach at all levels, with immediate focus on Team Manager and field team	Mentor and coach at all levels, with immediate focus on Territory Manager, Team Manager and field team	LMSB industry directors are responsible and accountable for ensuring appropriate application and administration of the Rules of Engagement in case interactions within their Industries.	Mentor and coach LMSB employees at all levels
Promote issue resolution at case level	Push decisions down to level closest to the facts	Mentor and coach at all levels, with immediate focus on DFOs and Territory Managers	Refer issues to Industry Directors and below as appropriate
Monitor progress	Identify/champion emerging issues on first case where issue appears	Push issues down to level closest to the facts	Work with Chief Counsel to carry issues to Treasury
Identify possible emerging issues and provide support to develop them	Mediate within team on impasses on issues or processes	Execute pre-filing agreement process responsibilities	Resolve impasses within LMSB
Ensure that field team operates as a unit	Identify/promote best practices	Assist in resolving cross-industry issues	Showcase best practices
Facilitate team and taxpayer planning issue development and resolution	Secure expertise outside field team and beyond territory	Mediate unresolved issues within own industry	Champion Issue Management Strategy
Secure expertise outside field team	Promote and ensure implementation of Issue Management Strategy	Work with Industry Analysts to develop industry practices based on cases	Support compliance resource strategy allocation across and outside LMSB

Territory Manager	Director Field Operations	Industry Director	Commissioner/Deputy
Facilitate positive relationship with taxpayer	Facilitate resource reallocation consistent with compliance strategy	Promote best practices specific to own industry	
Help identify and develop best practices and ensure that Team Manager implements them	Communicate industry and emerging issues with other Directors, Field Operations	Help determine impact on emerging issue with other Industry Directors and Counsel	
Ensure implementation of Issue Management Strategy	Communicate industry and emerging issues with Industry Director	Champion Issue Management Strategy	
Ensure that resources are deployed consistent with LMSB compliance strategy			
Communicate industry and emerging issues with the team manager and team			
Communicate with team manager and team to ensure consistent treatment			
Provide updated industry and emerging issues to team manager and team			
Review audit plan to ensure industry issues are addressed by team			
Communicate with Manager, Technical Advisor or Industry on emerging issues			
Communicate with Specialist Leadership on emerging issues			
Serve as contact person for external stakeholders			

In my experience, the articulated roles (and differentiations) are noble in aspiration and can and often do work in practice. A host of variables, however, affect the effectiveness of these Internal Revenue Manual guidelines.

### Who Are Field Specialists?

Field Specialists at the IRS include Computer Audit Specialists (CAS), Employment Tax agents, Engineers (all types of engineers, including business valuers, real property appraisers, foresters, and geologists), and Financial Products specialists. The Director of Field Specialists has a Director of Field Operations (DFO) West and a DFO East with an approximate geographic separation at the Mississippi River for CAS, Engineering, and Financial Products. Employment Tax is managed by one Territory Manager nationally. Although DFOs are responsible for their respective geographic area, each has dotted-line organizational responsibility for two of the Field Specialist programs—the DFO West for engineering and employment tax, and the DFO East for CAS and Financial Products. The CAS and Engineering Programs have two territory managers

in east and west. Financial Products has three territory managers with one in the west and two in the east. Employment Tax has one territory manager for the program nationally. There are approximately 1,100 employees in Field Specialists.

### Who Controls the Case?

The industry team manager (case manager) controls the case. Thus, the team coordinator and the case manager are the taxpayer's primary point of contact on the case. This works well as both formal and informal arrangements are made to address resources, space, priorities, timeliness, protocols, etc., between the taxpayer and the IRS team. Unofficially or looking at inferred power rather than organizational power, with a less experienced or weaker case manager and more experienced or strong willed team coordinator, the taxpayer may sometimes find the team coordinator in a stronger position than reflected in the official organization chart. A similar result can result in respect of a Field Specialist where the team coordinator or case manager may defer to the Field Specialist as the "expert" on the issue.

Regarding Field Specialists and their managers, the protocol suggests that the team speaks with one voice. Where this does not occur, the issue may be elevated to the front-line managers of the team coordinator and Field Specialist to resolve the issue internally. If not resolved at this level, territory managers for each role may become involved. On very rare occasions, executives may weigh in on the issue. Complicating the situation may be opinions from the Chief Counsel attorney assigned to the case local or the national office through the Chief Counsel Office. Technical Advisors may weigh in on the issue as well. With all of these participants, the taxpayer may become confused about who controls the issues. In theory, the case manager is the decision maker, but with higher-level management offering commentary, the front line case manager may feel pressure (or be perceived to have been pressured) to resolve a matter in a particular manner. Counsel may step in to assist the parties to ensure that the positions taken are not inconsistent with current law.

### When Should Issues Be Elevated in Management?

According to the IRM at 4.51.1 .5 regarding “Elevating Case Interactions Within Industries: case interactions can be triggered by teams or by leaders for a variety of reasons. In most instances, a team invites interaction from senior leaders in response to particular needs. In other instances, a leader may proactively become involved after identifying the need for interaction or uncovering a situational opportunity that warrants involvement.” The criteria for elevating case interactions within an industry where teams invite senior management typically involve (IRM 4.51.1.5) —

- A. Questions regarding availability of team resources; ability of the team to handle or resolve a particular issue or situation; team/manager experience levels; competing resource demands; and scheduling concerns resulting from taxpayer’s untimely furnishing of documents.
- B. Disputes within teams; disputes between teams and taxpayers, difficulties dealing with contentious taxpayers; taxpayer requests for senior leader or executive interactions; or taxpayer’s need to elevate issues or discussions within its own organization.
- C. Potential impact or visibility of an issue; potential for precedent-setting and/or concerns about undermining the tax system; need to coordinate issues across LMSB; lack of published guidance on a particular issue; the need for strategic industry input or assistance; need to ensure consistent industry treatment of issues; resolution that requires additional technical and/or procedural guidance or support; and emerging industry / specialist needs.

Senior managers or executives may determine a need for interaction. Typical reasons include:

- A. Requests from team leaders or taxpayers; involvement of new taxpayers; need to improve service to taxpayers; Trade Association or Industry group contact; or for other “relationship management” purposes.
- B. Increase understanding of particular cases / issues; ensure

consistent industry treatment; propagate best practices; introduce new initiatives; instill the values of and apply Issues Management Strategy.”

IRM 4.51.1.5.2 through IRM 4.51.1.6.3 cover such issues as protocols for case interaction within an industry, elevating case interactions across industries, criteria for elevating case interactions across industries, protocol for managing case interactions across industries, and guidelines for taxpayers when across industry contact is necessary. Whether the issue is within an industry or with an issue owner executive, the IRS wants case-related interactions at the team level, which is closest to the facts.

*When is it appropriate to request senior manager involvement or, in other words, a territory manager’s assistance?* There are several reasons for this, but the most common situation is when there is a breakdown in trust or when interpersonal relationships are jeopardizing progress. Individuals have a choice to remain self righteous or to address the issue efficiently. Blame on self or blame on others is counterproductive. Focusing on the problem is the best way to address the situation. A third party that truly listens to the parties may offer a way to resolve the issue. Not all senior managers are as receptive to this, but all are encouraged to work towards issue resolution. There clearly is an emphasis to resolve issues at the lowest level. For those that are receptive, this becomes apparent based on their ability to listen and interact with all parties using mediation techniques. Sometimes personal loyalty to the team or to an IRS position may cloud a senior manager’s perspective. Sometimes the team may feel they are factually and legally correct. A new look by another party, however, may be able to help overcome differences. The value of a fresh look can be illustrated by the following case study, which is based on a case in which I was involved.

A significant research credit case involving several million dollars involved an IRS team of engineers, an engineering manager, a CAS, a team member, a team coordinator, a case manager, technical advisors, and counsel. On the taxpayer’s side, an equivalent team had been assembled. The situation had deteriorated to a point where the IRS team and the taxpayer team were dysfunctional.

Becoming aware of the situation from the engineering manager, I offered to act as a third-party mediator to resolve the matter before it was sent to Appeals. The local engineering manager and the case manager were cautious but receptive, and the examination team indicated it, too, would be open to this intervention. With the case manager’s approval, I called an executive in the tax department. He was not optimistic, but after discussing with the taxpayer’s team, agreed to one last effort to resolve the matter.

I had a series of separate calls with the IRS team and with the taxpayer team to discuss the approach and to agree upon a methodology and ground rules for this process. We had a joint call with all the parties where we discussed how we would proceed. We set up a process regarding approximately a dozen issues related to research credit. We set a date and I came to the audit site. I first met with the entire group and then, as the mediation progressed, I shuffled between the parties who were in separate rooms. It was agreed by the parties that if we could reach an agreement on the first two thirds of the issues within an agreed time frame, then we would continue

to work on the next third of the issues with a second completion date. Most of a week was set aside for this process.

When I arrived at the conference room at the taxpayer location on the first morning of the mediation process, there were several binders available for inspection provided by the taxpayer's research credit consultant. The taxpayer offered me the opportunity to look at these. I responded that would not be necessary; I was there to mediate and not make independent determinations on the issue. When the IRS team entered the room, we professionally greeted each other. Each side presented a brief commentary followed by questions from the other side. This was a time for questions, however, and not for counterpoint. I had to stop each side from beginning to argue points and again I asked if there were any questions from the opening commentary.

We proceeded to the previously agreed-upon first issue for discussion. We were able to reach an agreement on the first two thirds of the issues. This required hard work on both sides, listening to each other (perhaps for the first time) as aided by my "shuffle diplomacy" between the parties. Each side realized that neither party had all of the facts necessary to make a complete decision, and each conceded that there was some merit in each other's position.

The executive of the tax department was not engaged in the process on a continuous basis. This caused some difficulties when it appeared that the right decision makers were not in the room, but the appropriate individuals were briefed at strategic times by their team and concurred with their team's recommendations. This empowered the taxpayer's team.

By focusing on the facts, the issues, the feelings of the parties, and their interests, the exam team and taxpayers were able to work towards acceptable solutions. The teams agreed these first set of issues would not be taken to Appeals.

The following day we addressed the largest issues. There was intense discussion by the parties. My focus, as a neutral, was on keeping the teams talking with each other in a civil manner and ensuring that each party was listening to the other. In this way, we could keep moving forward.

By late on the last day, we were close to an agreement. The executive in the tax department asked to have a private discussion with me. He said that the tentative agreement went beyond what he had agreed to beforehand with his boss. He asked me to be on a call with him to brief this individual and to seek his concurrence. I agreed. On a teleconference, I explained what we had done over the course of the mediation, what the tentative conclusions were, and how we had set up a process for the future on addressing these issues that would save the company significant time and resources — i.e., not only for this audit cycle but also for future years. He asked what I thought. I stated that I thought this was a reasonable resolution to the issue with the give and take that had been presented by both parties. With this information, the corporate executive agreed to the recommendations being presented.

Along the way, both sides had serious reservations. Each side attempted to bait me to become involved in diversions. In each instance, I remained neutral, listened to what was presented by each party, and shared appropriate factual commentary, removing the emotion of the sender. I reminded the parties this is not about blaming others or blaming self. I emphasized that either party could be

self righteous and that would end the process. If we remained focused on the issues (including trust issues on each side), however, we could efficiently work this process. This was an underlying interest on both sides. If possible, both sides wanted closure. Each party had to work with individuals on their team that would have preferred that the discussions fail. This can be one of the issues that a mediator has to bring to the discussion. Not everyone is necessarily on the same page and on board with the process. In those types of situations, the leadership of the taxpayer or exam team may need to step in to ensure progress is being made. In this instance, a final agreement was reached by the agreed-upon closing period.

The following day the parties were completing the agreements, using official Notices of Proposed Adjustments (Form 570)1. Some mistakes were found in the issue development and conclusions on some of the issues from the previous discussions. The effect of these was a few hundred thousand dollars of credit. When this was discovered, neither side had an appetite to work this further. Since so much energy had been spent during the mediation that each side agreed to the adjustments. Neither side wanted to let the agreement go. In this case, the parties agreed to the corrected adjustments. Both sides felt good about the end result. Not only had the parties resolved the outstanding issues, but they had set up a process to address these issues going forward. The parties could talk with each other, shake hands with each other, and professionally interact with each other going forward.

### Some Comments on Appeals Fast Track Settlement for LB&I

The Appeals Division offers fast track settlement as an approach to settle issues from examination. Although the IRS perceives this as a mediation type of approach, the true mediator acts as a neutral and does not try to influence the results. To be sure, the approach offered through the IRS at Appeals is a form of alternative dispute resolution that allows the parties to work towards a negotiated settlement considering the hazards of litigation, but this approach is not true mediation. Mediation allows the parties to determine a solution without the mediator imposing his or her will on the parties. This too can be effective in resolving an issue, but may not result in the taxpayer and team working more effectively moving forward.


### Reflection

Having experienced how it works, I truly believe in mediation. Appeals has an alternative with Fast Track Settlement for LB&I. It often works to resolve issues especially when hazards of litigation are a deterrent. There is a time for Fast Track Settlement and it should also be considered.

Given the ownership of issues by some employees and managers (with either the taxpayer or the IRS), and given the differences of opinions regarding issues by team members within the IRS, a Field Specialist Front Line Manager (or a more removed Territory Manager) trained and interested in mediation techniques can provide a valuable service in working toward issue resolution. The territory managers in Field Specialists who typically come up within the technical area are well versed in the issues, and can take an even-handed approach to the issues. The Field Specialist executive level has many areas of oversight, is spread thin, typically has less

hands-on experience or expertise in the technical area; similarly, the personnel typically has not had mediation training or the time to dive into the issue. There are times, however, when their position, experience, and background can be very useful, such as when the discussions may have reached the CFO, COO, or CEO level.

The technical Field Specialist Team Manager or Territory Manager is a valuable resource to work with the IRS team (Industry and Field Specialist) to resolve issues without taking additional time and resources from either the taxpayer or IRS perspective. An extreme Example is presented above. Most sessions with a technical Field Specialist Territory Manager require far less time. Taxpayers should think about issue resolution with a technical Field Specialist Manager or Territory Manager to assist the IRS team on reaching an agreement on examination. In the alternative, an experienced

mediator familiar with such issues might help you and the IRS team work to resolve issues in an efficient and effective manner. 

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