

# Part III. Administrative, Procedural, and Miscellaneous

Delegation Order No. 236 (Rev. 2)

## Delegation of Authority

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Delegation of Authority.

SUMMARY: The delegation order has been revised to eliminate terms that are causing unnecessary confusion in applying the delegation order and to expand the scope to include certain directly-related parties to covered transactions. The text of the delegation order appears below.

EFFECTIVE DATE: March 15, 1996.

FOR FURTHER INFORMATION CONTACT: Harry E. Lebedun, CP:EX:C:C, Room 2036, 1111 Constitution Ave., NW, Washington, DC. 20224, (202) 622-3654 (not a toll free number).

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Effective date: March 15, 1996.

## Application of Appeals Settlement to Coordinated Examination Program Taxpayers

The authority vested in the Commissioner of the Internal Revenue by Treasury Order Nos. 150-07, 150-09 and 150-10 and the authority contained in 26 U.S.C. Section 7121 is hereby delegated as follows:

1. All examination case managers are delegated discretionary authority under section 7121 of the Internal Revenue Code to accept settlement offers on any issue in a Coordinated Examination Program case under their respective jurisdiction. This authority applies, regardless of the amount of liability sought to be compromised, where a settlement (including a hazards settlement) has been effected by Appeals in a previous, subsequent or the same tax period (the settled period) with respect to the same issue of the same taxpayer, or of another taxpayer who was directly involved in the transaction or taxable event. Prior to finalization, the proposed settlement,

together with any related closing agreement or Form 870-AD, Offer of Waiver of Restrictions on Assessment and Collection of Deficiency in Tax and of (to be completed by case manager), shall be reviewed and approved by the appropriate branch chief within the Examination function.

2. For purposes of this delegation of limited settlement authority, no settlement shall be effected unless all of the following factors are present in the tax year currently under Examination jurisdiction:

(a) The facts surrounding a transaction or taxable event in the tax period under examination are substantially the same as the facts in the settled period.

(b) The legal authority relating to such issue must have remained unchanged.

(c) The underlying issue must have been settled by Appeals independently of other issues (e.g. no trading of issues) in the settled tax period.

(d) The issue must have been settled in Appeals with respect to the same taxpayer (including consolidated and unconsolidated subsidiaries) or another taxpayer who was directly involved in the transaction or taxable event in the settled tax period.

3. The criteria in section 2 apply to taxpayers "directly involved" in the transaction. Illustrations of a taxpayer "directly involved" in the transaction are as follows:

(a) Taxpayers A and B are directly involved in the same transaction or taxable event in tax period 19xx where A and B would logically receive similar tax treatment. Taxpayer A's treatment of the transaction is adjusted by Examination and settled in Appeals. The adjustment involves the same legal issue with respect to taxpayer B. Examination may resolve Taxpayer B's case in a manner consistent with the Appeals settlement of Taxpayer A.

(b) Taxpayers A and B are directly involved in the same transaction or taxable event in tax period 19xx where A and B would logically receive similar tax treatment. Taxpayer A's treatment of the transaction is adjusted by Examination and settled by Appeals. In addition, taxpayer A or B (or both) is directly involved in a separate, but similar transaction or taxable event in the same, prior, or subsequent tax

period involving the same legal issue as above. Such issue for taxpayers A or B only may also be settled in a consistent manner provided it involves substantially the same facts.

4. All examination case managers are delegated authority to execute closing agreements and the Form 870-AD in order to effect any final settlement reached in a Coordinated Examination case.

5. For settlement authority of Industry Specialization and International Field Assistance Specialization Program coordinated issues, see Delegation Order No. 247.

6. The authority delegated in this Order may not be redelegated.

7. The authority contained in this Order supplements the authority contained in Delegation Order 97 (as revised).

8. Delegation Order No. 236 (Rev. 1), effective June 3, 1994, is superseded.

Dated: March 15, 1996.

Michael P. Dolan,  
*Deputy Commissioner.*

(Filed by the Office of the Federal Register on April 2, 1996, 8:45 a.m., and published in the issue of the Federal Register for April 3, 1996, 61 F.R. 14852)