



DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, DC 20224

January 22, 2020

Control Number: LB&I-20-0120-001  
Expiration Date: 01-22-2022  
Affected IRM: 20.1.12

MEMORANDUM FOR ALL LB&I AND SB/SE EMPLOYEES

FROM: Douglas W. O'Donnell /s/ *Douglas W. O'Donnell*  
Commissioner, Large Business and International Division

Eric Hylton /s/ *Eric Hylton*  
Commissioner, Small Business/Self-Employed Division

SUBJECT: Interim Guidance on IRC 6695A Penalty Case Reviews

This memorandum issues guidance eliminating the multi-tiered review process for IRC 6695A appraiser penalty cases and establishing a process for examining appraisers to notify the examiner or attorney of a potential IRC 6695A penalty case. Please ensure this information is distributed to all affected employees.

**Background/Source(s) of Authority:** Section 1219 of the Pension Protection Act of 2006 added IRC 6695A, Substantial and Gross Valuation Misstatements Attributable to Incorrect Appraisals. This penalty provision applies to any person who prepared an appraisal of property and who knew, or reasonably should have known, the appraisal would be used in connection with a return or claim for refund, which resulted in a substantial valuation misstatement (within the meaning of IRC 6662(e)), a substantial estate or gift tax valuation understatement (within the meaning of IRC 6662(g)), or a gross valuation misstatement (within the meaning of IRC 6662(h)) with respect to such property.

**Procedural Change:** The updated procedures are found on Attachment – Interim Guidance LB&I-20-0120-001.

**Effect on Other Documents:** This guidance will be incorporated into IRM 20.1.12 by a date not to exceed two years from the date of this memorandum.

**Contact:** William (Tim) Brittain (205) 912-5706; [William.Brittain@irs.gov](mailto:William.Brittain@irs.gov)

Attachment

Distribution: [IRS.gov \(http://www.irs.gov\)](http://www.irs.gov)

IRM 20.1.12.7 AS REVISED

**Attachment – Interim Guidance LB&I-20-0120-001**

**The following changes are hereby effective as of the date of this memorandum for IRM 20.1.12.**

The multi-tiered review process set forth in IRM 20.1.12.7.4 is eliminated.

If an examining appraiser (IRS appraiser or valuation specialist) is assigned to an income, estate or gift tax examination and determines a valuation misstatement has occurred in accordance with provisions set forth in IRC 6695A, *Substantial and gross valuation misstatements attributable to incorrect appraisals*, the examining appraiser will obtain his/her immediate supervisor's written approval (email, memorandum, or other written form), and notify the examiner or attorney that the case is a potential IRC 6695A penalty case through a memorandum with information set forth in IRM 20.1.12.7.2(4).

Often the determination to open an IRC 6695A penalty case is based on the recommendation of the examining appraiser. However, the income, estate or gift tax examiner or attorney should open an IRC 6695A penalty case per IRM 20.1.12.6 whenever they determine penalty consideration is warranted (and obtain the immediate supervisor's written approval).

**Note:** Submitting a referral via the Specialist Referral System (SRS) is only required for IRC 6695A penalty cases when the examiner or attorney needs the assistance of an IRS appraiser or valuation specialist and a potential IRC 6695A recommendation from an examining appraiser was not received.

The IRS appraiser or valuation specialist may assist the examiner or attorney in preparing an Information Document Request (IDR) to the subject appraiser requesting the basis for meeting the "more likely than not" exception provided in IRC 6695A, and may meet with the subject appraiser, in person or by conference call.

The examiner or attorney (or other assigned IRS personnel) is responsible for asserting the IRC 6695A penalty based on the information obtained during the examination, issuing Form 886-A, Explanation of Items, and closing the penalty case. See IRM 20.1.12.6, Field Examination Procedures, for additional information.