



Large Business and International Directive on Information Document Request Enforcement Process

November 4, 2013

LB&I Control No: LB&I-04-1113-009

Impacted IRM 4.46.4

MEMORANDUM FOR LB&I Employees
FROM: Heather C. Maloy /s/ Heather C. Maloy
 Commissioner, Large Business and International Division
SUBJECT: Large Business and International Directive on Information
 Document Requests Enforcement Process

Introduction

Over the last several months, all Large Business & International (LB&I) examiners and specialists should have completed two mandatory training sessions on Information Document Requests (IDRs), one covers requirements for issuing IDRs and one covers new procedures for enforcing IDRs. This training and the IDR procedures set forth in this Directive are designed to make the IDR process as efficient and transparent as possible. These new procedures should improve our ability to gather information timely and reduce the need to enforce IDRs through summonses. While this should be the result, it is equally important to have an effective and transparent IDR enforcement process if and when it may become necessary.

Planning and Examination Guidance

This Directive reiterates the guidance in the Directive dated June 18, 2013, given to LB&I examiners and specialists to follow when issuing an Information Document Request (IDR) during the information gathering phase of an examination. In addition, this Directive provides guidance on the enforcement process that must be used when a taxpayer does not timely respond to an IDR that is issued in the manner described in this Directive; that is, an IDR that is issue focused, has been discussed with the taxpayer, and contains a response date that has been discussed with the taxpayer and, in most instances, has also been mutually agreed upon. As of the date of this Directive, all LB&I managers, examiners and specialists must ensure that all outstanding and future IDRs comply with the new requirements for issuing IDRs. Attachment 1 to this Directive contains a summary of these requirements.

The new IDR Enforcement Process involves three graduated steps: (1) a Delinquency Notice; (2) a Pre-Summons Letter; and (3) a Summons. This process is mandatory and has no exceptions. It requires LB&I managers at all levels to be actively involved early in the process and ensures that Counsel is prepared to enforce IDRs through the issuance of a summons when necessary. Attachment 2 to this Directive contains a summary of the IDR Enforcement Process.

To provide for a smooth transition for LB&I examiners, LB&I specialists and taxpayers, this Directive instructs IRS teams to discuss with taxpayers currently under examination the new requirements related to both the issuance and the enforcement of IDRs. These discussions should take place as soon as practical, but generally no later than December 15, 2013.

Pursuant to this Directive, the IDR Enforcement Process is effective beginning January 2, 2014. As of that date, the process applies only to IDRs that have been issued in accordance with the requirements contained in Attachment 1. If an IDR does not meet these requirements, it must be reissued to conform to the new requirements including a new response date, at which time the enforcement procedures described in Attachment 2 will apply to that IDR. In addition, to ensure a smooth transition to these new enforcement procedures, examiners and specialists should not issue Delinquency Notices prior to February 3, 2014.

This Directive is not an official pronouncement of law and cannot be used, cited or relied upon as such.

cc:

Division Counsel, LB&I

Attachment 1

LB&I Directive on Information Document Requests (IDRs)

Requirements for Issuing IDRs

IDRs are an important part of the information gathering process during any examination. When issuing IDRs, LB&I examiners and specialists should follow the requirements listed below:

1. Discuss the issue related to the IDR with the taxpayer.
2. Discuss how the information requested is related to the issue under consideration and why it is necessary.
3. After this consultation with the taxpayer, determine what information will ultimately be requested in the IDR.
4. Ensure the IDR clearly states the issue that is being considered and that the IDR only requests information relevant to the stated issue.
5. Prepare one IDR for each issue.
6. Utilize numbers or letters on the IDR for clarity.
7. Ensure that the IDR is written using clear and concise language.
8. Ensure that the IDR is customized to the taxpayer or industry.
9. Provide a draft of the IDR and discuss its contents with the taxpayer.
10. After this discussion is complete, determine with the taxpayer a reasonable timeframe for a response to the IDR.
11. If agreement on a response date cannot be reached, the examiner or specialist will set a reasonable response date for the IDR.
12. When determining the response date, ensure that the examiner or specialist commits to a date by which the IDR will be reviewed and a response provided to the taxpayer on whether the information received satisfies the IDR. This date should be noted on the IDR.
13. If the information requested in the IDR is not received by the response date, the examiner or specialist will follow the IDR Enforcement Process set forth in Attachment 2.

LB&I Directive on Information Document Requests (IDRs)

IDR Enforcement Process

IDRs are an important part of the information gathering process in any examination. If information requested in an IDR that is issued in accordance with the requirements contained in Attachment 1 is not received by the IDR response date, the examiner or specialist must follow the IDR Enforcement Process described below. The process has three graduated steps: (1) a Delinquency Notice; (2) a Pre-Summons Letter; and (3) a Summons. This process is mandatory and has no exceptions. It requires LB&I managers at all levels to be actively involved early in the process and ensures that Counsel is prepared to enforce IDRs through the issuance of a Summons when necessary.

Delinquency Notice (Letter 5077)

If a taxpayer does not provide a complete response to an IDR by the response date, the examiner or specialist will complete the first phase of the enforcement process, the Delinquency Notice, by following the procedures described below:

1. Discuss with the appropriate personnel from both the IRS and the taxpayer the IDR and the IDR response to identify what information is missing.
2. Discuss the Delinquency Notice with the taxpayer. During this discussion, ensure that the taxpayer understands the next steps in the enforcement process if the information requested in the IDR is not provided by the response date established in the Delinquency Notice.
3. Issue the Delinquency Notice signed by the Team Manager to the taxpayer within 10 calendar days of the IDR response date. The Delinquency Notice should include a response date that is generally no more than 15 calendar days from the date of the Delinquency Notice.
4. A Territory Manager must approve any date beyond a 15 calendar day response period.
5. Provide a copy of the Delinquency Notice and the IDR to your assigned Counsel.

Pre-Summons Letter (Letter 5078)

If a taxpayer does not provide a complete response to an IDR by the response date in the Delinquency Notice, the examiner or specialist will complete the next phase of the enforcement process, the Pre-Summons Letter, by following the procedures described below:

1. Discuss the lack of response to the Delinquency Notice with the Team Manager, Specialist Manager, the respective Territory Managers and Counsel and prepare the Pre-Summons Letter.
2. The appropriate Territory Manager will discuss the Pre-Summons Letter with the taxpayer. During this discussion, ensure that the taxpayer understands the next steps in the enforcement process if the information requested in the IDR is not provided by the response date established in the Pre-Summons Letter.
3. Issue a Pre-Summons Letter signed by the appropriate Territory Manager. This must be done as quickly as possible but generally no later than 14 calendar days after the due date of the Delinquency Notice. Address this letter to the taxpayer management official that is at a level equivalent to the LB&I Territory Manager. This should be a level of management above the taxpayer management official that received the Delinquency Notice.
4. Include a response date in the Pre-Summons Letter that is generally 10 calendar days from date of Pre-Summons letter.
5. A Director of Field Operations (DFO) must approve any date beyond a 10 calendar day

response period.

6. Discuss the Pre-Summons Letter with Counsel.
7. DFO(s) must be made aware of the Pre-Summons Letter prior to issuance.

Summons

If a taxpayer does not provide a complete response to an IDR by the response date in the Pre-Summons Letter, the examiner or specialist will complete the next phase of the enforcement process, the Summons, by following the procedures described below:

1. Discuss the lack of response to the Pre-Summons Letter with the Team Manager, Specialist Manager, the respective Territory Managers and DFOs, and Counsel and prepare the Summons.
2. Coordinate the issuance of the Summons with assigned Counsel.
3. Summons procedures can be found in IRM Section 25.5.

Page Last Reviewed or Updated: 04-Nov-2013