



Part 4. Examining Process

Chapter 46. LB&I Examination Process

Section 3. Planning the Examination

4.46.3 Planning the Examination

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Manual Transmittal

March 14, 2016

Purpose

(1) This transmits revised IRM 4.46.3, *LB&I Examination Process, Planning the Examination*.

Scope

Not all examinations are the same in scope, size, and complexity; therefore, portions of this IRM may be more applicable to some cases than others.

Material Changes

- (1) Substantial revisions have been made to 4.46.3, *Planning the Examination*, to incorporate the issue-driven examination as described in Publication 5125, *LB&I Examination Process*.
- (2) Expanded IRM 4.46.3.1.2 on survey procedures and added IRM 4.46.3.1.2.1 on paperless surveys.
- (3) Streamlined IRM 4.46.3.2.5.4, *Outside Expert Program*, (previously IRM 4.46.3.8.11.1 through IRM 4.46.3.8.11.19), and added website reference.
- (4) Replaced Exhibit 4.46.3-4, *Compliance Checks Audit Tool*, with Exhibit 4.46.3-5, *Compliance Checks Tool*.
- (5) Added IRM 4.46.3.6, *LB&I Claims Process*, which provides claims expectations as described in the Publication 5125, *LB&I Examination Process*, and sets a deadline for LB&I taxpayers to file informal claims.
- (6) Added IRM 4.46.3.8, *Examination Plan*, which describes the elements of an examination plan and provides guidelines for taxpayer review, signing and revising the examination plan. Two of the three examination plan options are described in IRM 4.46.3.8.5, *Issue Based Examination Plan* and IRM 4.46.3.8.6, *IC Examination Plan*.
- (7) Moved *Coordinated Industry Case (CIC) Information* (previously 4.46.3.4, *The Examination Plan*) to IRM 4.46.3.9. This is the third examination plan option. This material was not changed.
- (8) Removed all references to LIFE examinations.
- (9) Removed IRM 4.46.3.8.10, *Specialists and Specialists' Managers*, to streamline 4.46.3. The roles and responsibilities for each specialist and specialist managers are provided in other sections of the IRM.
- (10) Added Exhibit 4.46.3-6, *Inspection of Corporate Officers and "Key" Executive Returns*. This exhibit adds information from the LB&I (formerly LMSB) Commissioner memo with the same title dated 8/23/2004.
- (11) Added Exhibit 4.46.3-7, *LB&I Guidelines for Reviewing Claims*, and Exhibit 4.46.3-8, *Risk Assessing Claim Issue(s)*.
- (12) As part of the restructuring of IRM 4.46, the following topics, while still relevant, no longer fit in this IRM section. These topics will either be added to other sections of IRM 4.46 or the appropriate IRM section based on the subject matter.

IRM Section	Title
4.46.3.2.3.3.1	Taxpayer Advocate Service Referrals
4.46.3.5.8	Separate Examinations
4.46.3.5.9	Instances when Separate Examinations May Be Warranted
4.46.3.5.10	Removing an Entity from Control
4.46.3.5.11	Transfer of Primary Group Jurisdiction
4.46.3.5.12	Dual Control Resulting from Transfer
4.46.3.5.13	Decontrol of Coordinated Industry Cases
4.46.3.7.8	Conflict Resolution Resources Available to the Team Manager
4.46.3.8.12 and subsections	Assistance and Support
4.46.3.8.14 and subsections	Criminal Investigation Participation in LB&I Examinations
4.46.3.8.15	Special Examination Features and In-Depth Probes
4.46.3.8.16 and subsections	Procedures when Fraud is Indicated
4.46.3.9 and subsections	Use of LB&I International

Effect on Other Documents

LMSB Memorandum entitled *Inspection of Corporate Officers and "Key" Executive Returns* dated 8/23/2004 is incorporated in this IRM. IRM 4.46.3 dated September 4, 2013 is superseded.

Audience

All LB&I personnel

Effective Date

(03-14-2016)

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4.46.3.1 (03-14-2016)

Overview of the Planning Phase

1. Planning the examination is crucial for an efficient examination. In order to use resources efficiently, examinations must be effectively planned using an issue-driven strategy. A successfully executed plan requires active engagement by LB&I and the taxpayer, starting in the planning phase and continuing throughout the entire examination process.
2. The planning phase begins with an assessment of the tax return for examination potential. Once a return has been selected for examination, there are multiple planning considerations the case manager and agent should address. These considerations include familiarizing themselves with the taxpayer and/or their industry, potential issues requiring specialist's involvement, pending statute dates along with distribution of case file/taxpayer information to those involved with the issue assessment of the return.
3. Initial planning discussions lay the groundwork for a mutual exchange of information and understanding that will assist both the exam team and the taxpayer in defining and carrying out an issue-driven examination. Depending on the scope of the examination and the type of taxpayer's enterprise, the number and type of meetings may vary.
4. Collaborating internally as well as with the taxpayer will allow the development of a well-defined issue-driven examination plan that can effectively serve as the road map for conducting an examination. Success will largely depend on the transparency, cooperation, and responsiveness of everyone involved in the examination.

4.46.3.1.1 (03-14-2016)

Initial Risk Assessment of the Return

1. An initial assessment to determine if the tax return warrants examination should be completed upon receipt of the case. If you receive inventory that contains instructions, review the instructions and follow the guidance provided. The examiner and case manager should consult and collaborate with specialist managers and examiners for a comprehensive initial assessment. If the return is not selected for examination, procedures to survey the return should be followed. See IRM 4.4.21.5 for Survey Procedures.

4.46.3.1.2 (03-14-2016)

Decision to Survey a Return

1. Returns can be surveyed either before or after assignment. To survey a return an analysis and evaluation of audit potential and resources must be completed.
2. A return may be surveyed after assignment if, after conducting the in-depth analysis and evaluating the audit potential, the following conditions are met:
 - A. The taxpayer (or representative) has not been contacted.
 - B. Taxpayer records have not been inspected.
 - C. The examiner determined an examination will most likely not result in a material change in the taxpayer's tax liability.
3. A Survey Reason Code is required for all LB&I returns that are surveyed either before or after assignment (Disposal Code 31 or 32). The Survey Reason Code (SRC) values and definitions are as follows:
 - A. Survey Reason Code A: No Large, Unusual or Questionable (LUQ) Items**– This code should be used if the primary reason for the survey is because there are no LUQ items on the return.
 - B. Survey Reason Code B: No Change in Prior Year**– Use this code if the primary reason for the survey is that the same issues identified on the current year return were just as significant in either of the two preceding years and were no-changed or had a small tax change.
 - C. Survey Reason Code C: Beyond Cycle (includes statute issue)** – should be used if the primary reason for the survey is based upon currency and/or statute considerations.
 - D. Survey Reason Code D: Lack of Resources**– should be used if the primary reason for the survey is due to a lack of resources.
 - E. Survey Reason Code E: Other** – This code should be used if the primary reason for the survey is other than those indicated in Survey Reason Codes A through D.
4. When preparing a case file for survey, one of the SRC values must be entered on the closing form (i.e. Form 4251, Form 5351, or Form 5546) to the right of the Disposal Code. The SRC must also be entered on ERCS when closing the return from the group. Only one reason code can be entered. If more than one reason code applies, only use the code that reflects the primary reason for the survey.
5. For returns using SRC E, "Other" , managers must include a separate form in the administrative case file that clearly explains the reason for the survey. Either the LB&I Survey Form 14235 or Form 1900, *Income Tax Survey After Assignment*, can be used for this purpose. The form will remain in the case file when it is closed. For paperless surveys, this form is maintained in CCP with the respective closing document for three years.
6. Survey Claims After Assignment - IRM 4.10.2.5.5, *Surveying Claims*, provides guidance on surveying claims after assignment.
7. IMS inventory is automatically populated for ERCS status 10 and 12 and is based on assigned ERCS ID. Other ERCS statuses are not added to the IMS Inventory. If the return does not display in the IMS Inventory window, it is possible to manually add returns to IMS from the Entities window of an existing case or when creating a new case. If the ERCS data comes through later, IMS will automatically merge ERCS data with any manual case data for cases with the same TIN, TIN type, MFT, and Tax Year. The ERCS data will replace manually entered data. IMS provides for the LB&I Survey form from the ERCS inventory and agents can create the Form 5351 in IMS. The Disposal Code on the ERCS Data tab of the Edit Entity window in IMS needs to be 31 or 32 (if it is not the ERCS Status code on the ERCS Data Tab).

4.46.3.1.2.1 (03-14-2016)

Paperless Survey - Non-Examined Closures Using a Paperless Process

1. Certain non-examined cases surveyed before (DC 31) and after assignment (DC 32) may be closed virtually paperless if the original return was **never** requested and no documentation needs to go to Files. Generally, this process is used when the return was established on AIMS using an electronic print and the original return was never requested. For purpose of this section electronic prints are:
 - A. LIN images
 - B. IDRS prints (BRTVUE, CDE, TRDBV, TRPRT, TRDBB, IMFOLT, TXMOD)

C. MeF/ELF returns

2. If the return was requested when the record was established on ERCS/AIMS the paperless procedures do not apply. Before requesting a paperless closure, pull an AMDISA and if the words "RETURN REQUESTED" appear on page 2 - line 8 then a paperless closure CANNOT be requested.
3. Only survey cases closed at the group level with disposal code 31 or 32 can use the paperless survey process.
4. Only a Form 5351, *Examination Non Examined Closings*, and a Form 3210, *Document Transmittal*, are needed for a paperless survey. If the SRC is "E" (Other), then a Form 14235, *LB&I Survey Form* or Form 1900, *Income Tax Survey After Assignment* is also required. Send the required documents to Centralized Case Processing (CCP).
5. Complete Form 5351 as follows:
 - A. Use only one MFT per Form 5351.
 - B. List only one tax period per label block.
 - C. More than one disposal code may be used.
 - D. The manager should sign their name in the "Approved By" box at the top of Form 5351 and enter the current date.
 - E. Enter the taxpayer's name, TIN, MFT, and tax year. If a label is available, affix the label.
 - F. Enter the disposal code in the lower left corner of the block. If a label is available, list the disposal code on the label below "STATUS" .
6. **Do not send electronic prints, asset locator research, or charge-out documents to CCP.** These documents should be shredded. If you have information that must be retained, you cannot use the paperless survey closure.

4.46.3.1.3 (03-14-2016)

Planning - Return Assignment

1. Certain factors should be considered when assigning a return for examination. These factors are listed below:
 - A. **Statute of Limitations** – The first responsibility when a return is assigned is to determine when the statute of limitations for assessments will expire. Careful consideration should be given to the earliest statute of the tax year or years when creating the examination plan. See the LB&I Statute web site for additional information.
 - B. **LB&I Business Goals** –Returns selected for examination will be in line with LB&I strategic goals. Case managers will collaborate with specialist managers when reviewing inventory and consider any deviations from the goals. Deviations require approval of the territory manager. LB&I has several program initiatives that pre-classify returns along with certain mandatory cases. Examiners are expected to follow the guidance and instructions issued with respect to that initiative when receiving those cases.
 - C. **Case Built File (CBF) Information** - The CBF serves as a repository for case related information that is available to an employee assigned to examine a return. Types of items included are Classification Sheets, Taxpayer Information Gateway (TIG) reports, Selection, Workload and Classification (SWC-C2) reports, YK1 reports, Financial Data and Risk Assessment Reports, Schedule UTP information, Office Tax Shelter Analysis Disclosure documents and risk assessment documentation assembled by the Compliance Management Operations team. Primary and subsequent returns delivered through LWIS will have a CBF. The case manager will forward the CBF information to the appropriate managers to ensure comprehensive risk assessment.
Reminder:
CBF information should be obtained and shared early in the examination process.
 - D. **Resources Available** - Planning an examination is a collaborative effort between case and specialist managers leveraging all available resources. Consultations with technical specialists such as subject matter experts and local counsel are valuable resources that should also be leveraged.
 - E. **Auditor's Workbench** - This program displays and analyzes data from Forms 1065, 1118, 1120, 5471, 5472, 8858 and 8865. The source of data for the use of the program is the XML files that can be downloaded from the LIN system. See <http://lmsb.irs.gov/hq/fs/cas/IIR.asp>.
 - F. **IMS Input Requirements** – IMS information is a tool used for planning, execution and resolution. Accurate and up-to-date information allows for appropriate decision making regarding case development and resource allocations. See IMS Website: IMS Requirements.

4.46.3.1.4 (03-14-2016)

Planning - Review of Return

1. After a case is assigned to the examiners, they will review and update the initial assessment/classification information and familiarize themselves with the taxpayer's business operations. This research will assist setting a preliminary examination scope and determining the potential for issue team members.
2. For each potential issue identified requiring specialists, a referral should be submitted as early as possible to initiate the collaborative risk assessment process. The referral submitted should include the information relied upon during the initial return assessment to ensure proper resources are assigned. The case manager should collaborate with specialist peers to ensure that resources are available for the planned span as well as total time.
3. The case manager should project the examination starting date so resources can be identified in a timely manner. Priorities should be established through an issue-driven risk process, which compares the potential benefits to be derived from examining an issue to the resources required to perform the examination. The risk assessment should document any considerations regarding selection and control of any related returns.

4.46.3.1.4.1 (03-14-2016)

Conflict of Interest

1. Review and consider both Policy Statement 4-5 (P-4-5) and Policy Statement 4-6 (P-4-6). Also see *IRM 4.46.3.3.3, Financial Interests or Other Conflicts of Interest and Disclosure*.
2. P-4-5 states that an examiner or specialist may not examine or survey a tax return of a taxpayer for more than 5 consecutive years (60 months) from date of assignment. If the examination is in process at the 5 consecutive year point, the examiner or specialist is allowed to complete the examination under certain provisions. For details on what constitutes a consecutive year and/or exceptions review *IRM 1.2.13.1.3, Policy Statement 4-5, (P-4-5) and IRM 4.10.2.2.4, Repeat Audits by the Same Examiner*.
3. Policy Statement 4-6 (P-4-6), *IRM 1.2.13.1.4*, prohibits examiners from examining or surveying a tax return if a relationship impairs impartiality. A conflict of interest exists if an examiner's personal relationship(s) or private interest (usually of a financial or economic nature) conflict, or raise a reasonable question of conflict, with the examiner's public duties and responsibilities. (See also *IRM 4.10.2.2.3, Conflict of Interest*.) The intent of the conflict of interest policy is to avoid any appearance of impropriety on the part of an examiner.
 - A. Personal relationships can include family members, friends and associates.
 - B. A financial interest may be one involving the examiner's spouse, minor child, partner, or organization in which the examiner is serving as an officer, director, trustee, partner or employee, or any person or organization with whom the examiner is negotiating or has any arrangement concerning prospective employment.

4.46.3.1.5 (03-14-2016)

Specialist Referrals

1. Team members/specialist assignment – Before specialists are requested through the Specialist Referral System (SRS), the case manager may want to collaborate with specialist managers to discuss potential issues identified.
2. Computer Audit Specialists (CAS) should be one of the first specialists considered for the examination team. The CAS will assess the availability and quality of machine-sensible records and obtain access to appropriate records and documentation for analysis. The case manager and CAS manager should discuss the lead time and resources needed to provide tools used in the planning and risk analysis process. The case manager will ensure the case is placed in status 12 so that the CAS can perform these tasks.
3. Based on the potential issue(s) identified, each specialist manager will determine the specialist team member(s) needed to examine the issue(s). To gain efficiencies, the case manager should collaborate with other manager(s) to discuss the availability of examiners having knowledge about each issue identified.

4.46.3.1.5.1 (03-14-2016)

Specialist Referral System (SRS)

1. Automated System for Requesting Specialist Assistance – The Specialist Referral System (SRS) automates the referral process requesting specialist assistance. Agents generate referral requests online and SRS automatically notifies the appropriate specialist managers of the request.
2. Specialists covered by the SRS – The following specialist services must be requested using SRS:

Specialist Service	Corresponding IRM
Art Appraisal Group	IRM 4.48.2
Computer Audit Specialists	IRM 4.47
Computer Audit Specialists - Stat. Sampling (CAS use only)	IRM 4.47.3
Economists	IRM 4.49
Employee Plans (TEGE)	IRM 4.71
Employment Tax (SBSE)	IRM 4.23
Engineering Group	IRM 4.48
Estate and Gift	IRM 4.25
Excise – Fuel	IRM 4.24
Excise – General	IRM 4.24
Exempt Organizations (TEGE)	IRM 4.75
Federal, State & Local Government (TEGE)	IRM 4.90
Financial Products	IRM 4.37
IBC - Withholding	IRM 4.10.21
Indian Tribal Government (TEGE)	IRM 4.86
International	IRM 4.60, IRM 4.61
LB&I Actuary	n/a
Outside Expert – COTR	IRM 4.46.3.2.5.4
Referrals to Collection	IRM 4.20
Tax Computation Specialists (LB&I)	IRM 4.46.6
Tax-exempt Bonds (TEGE)	IRM 4.81
TEFRA	IRM 4.31

3. The SRS is accessible through the LB&I intranet at <https://srs.web.irs.gov/>.

4.46.3.1.6 (03-14-2016)

Contacting the Taxpayer

1. After the case has been selected for examination and assigned, contact with the taxpayer should be timely initiated.
2. Generally, examiners should make initial contact with corporate taxpayers by telephone to schedule the initial appointment. IRM 4.10.2.8.2, *Contacting the Taxpayer by Telephone*, lists the advantages of contacting the taxpayer by telephone to schedule the initial appointment. To confirm an appointment made by telephone of an LB&I examination of a corporation, partnership, or other business return types, Letter 3253-L, *Taxpayer Appointment Confirmation Letter*, will be used. In the few cases where initial contact and audit appointments are made via mail, Letter 2205-L, *LB&I Initial Contact Letter*, should be used. Letters 2205-L and 3253-L are only applicable to business returns and include a reference to a web link to access and download Publication 1 and Notice 609 at www.irs.gov/businesses. The transfer pricing IDR should be issued with any form of the initial contact letter on all LB&I cases when a Form 5471 or Form 5472 is attached to the return.
3. Refer to IRM 25.4.1 and IRM 25.4.2 for guidance in dealing with taxpayers designated under the "Potentially Dangerous Taxpayer" (PDT) and "Caution Upon Contact" (CAU) programs, respectively. Additional information can also be found on the Office of Employee Protection web site: <http://sbseservice.web.irs.gov/OEP/default.aspx>
4. For individual returns (1040 taxpayers), LB&I will use Letters 2205 and 3253 to ensure that taxpayers who have limited access to the web receive the required publications and notices. Publication 1, *Your Rights as a Taxpayer*, and Notice 609, *Privacy Act Notice*, must be included with the letters as required by RRA 98. See IRM 4.10.2.7.4.2. Receipt of Publication 1 and Notice 609 will be confirmed at the first in-person meeting with the taxpayer and should be documented in the case file.
 - A. For National Research Program (NRP) cases, appointment Letter 2205-B is used, and Notice 1332, *Why Your Return is Being Examined*, must be included with the letter. Publication 1 and Notice 609 is also provided to NRP taxpayers.
 - B. In those cases where an appointment letter is not used or when the taxpayer does not confirm receipt of Pub 1 or Notice 609, both publications will be provided at the opening conference (meeting) (e.g. when the examination of a subsequent cycle is initiated).
 - C. Publication 3498, *The Examination Process*, explains the audit process from the initiation of the examination through an overview of the appeals and collection processes. It is mailed with all preliminary 30-Day Letters. See IRM 4.10.8.13.6 *Contents of Preliminary 30-Day Letters*.

4.46.3.2 (03-14-2016)

Risk Analysis Process

1. Risk analysis is an on-going process throughout the examination. To leverage and effectively utilize our resources, a comprehensive risk analysis should be conducted by the exam team with consideration of input from the taxpayer and focus on issues that raise significant compliance challenges. The detail and depth of the risk analysis may vary according to the type and complexity of the tax return.
2. A comprehensive risk analysis should :
 - Define the scope of the audit
 - Assign the right resources to the issues

- Establish the case timeline based on all the issue timelines

4.46.3.2.1 (03-14-2016)

Examiner's Preliminary Risk Analysis - Information Resources

1. Inventory received may already have an initial risk analysis component and instructions. Review all information transmitted with the case. If no guidance is received, conduct a preliminary risk analysis using the information resources that are available to the examiner. Financial information resources available will depend on whether the entity is publicly or privately held.
2. Publicly held entities have published financial information that provides a basis for understanding the entity's business activities, operations, accounting and financial data, and policies. In contrast, privately held entities may have limited public information. The examiner should consider obtaining necessary information on potential issues during the opening conference (meeting) when information is limited to establish the risk analysis.
3. Internal information resources available for preparing the preliminary risk analysis include:
 - Tax return information
 - Case-built files
 - Historical information: planning file (*Exhibit 4.46.3-1*), prior RARs, ACMs, etc.
 - Internal information systems (IMS, ERCS, IDRS, etc.)
 - IRWeb (the IRS intranet)
 - Subject Matter Experts and Financial Statement Reviewers (FSR)
 - Counsel
 - yK-1
 - Auditor's Workbench
4. External resources include:
 - Financial statement information
 - Security Exchange Commission (SEC) Filings
 - Taxpayer website(s)
 - Internet research
 - Contracted vendor services (i.e. Lexis Nexis, Westlaw, Accurint, Capital IQ, etc.)
 - Publications such as newspapers, trade magazines, industry journals etc.
 - Other regulatory agencies
 - Any other third parties (See IRM 25.27.1, *Third Party Contact Program*, for procedures)

4.46.3.2.1.1 (03-14-2016)

Federal, State and Local Agencies

1. Many of the taxpayers in LB&I deal with one or more regulatory agencies, either federal or state. These agencies usually conduct detailed examinations of the taxpayer's operations. The case manager can sometimes save time by the use of the audit reports and workpapers of those agencies. The case manager should ensure that the team attempts to get the information from the agency directly if the taxpayer does not voluntarily make the reports available. A request for the reports should be made through Privacy, Governmental Liaison and Disclosure (PGLD) if the requests to the taxpayer and to the agencies are unsuccessful (See IRM 11.4, *Office of Governmental Liaison*).
2. When contacting third parties to obtain non-public information about the taxpayer under examination, see *IRM 4.46.3.3.1*.

4.46.3.2.2 (03-14-2016)

Counsel and/or Technical Specialists

1. To facilitate the understanding of potential industry issues, any recent legislation changes and emerging issues, consider contacting Area Counsel or Technical Specialists. Area Counsel and Technical Specialists can provide assistance in risk assessment and other aspects of the case planning process. Counsel Involvement is a valuable technical resource. See <http://lmsb.irs.gov//TAHome.asp>

4.46.3.2.3 (03-14-2016)

Risk Analysis Decision Points

1. A risk analysis must be completed during the planning stage of the examination. This risk analysis should be reviewed throughout the development of each issue being examined. Risk analysis decision points to consider include:
 - A. Return received in group
 - B. Pre-contact analysis
 - C. Issue identification
 - D. Mid-cycle risk analysis (see *IRM 4.46.3.2.6*)
 - E. Ongoing factual development
 - F. Acknowledgment of the facts
 - G. Issue resolution

4.46.3.2.4 (03-14-2016)

Risk Analysis Collaboration

1. Team members should engage at the earliest point of the planning phase to collaborate on the initial risk analysis of the return. The case manager in consultation with specialist managers will collectively assess potential issues and establish issue priorities. Throughout the risk analysis process, an ongoing dialogue should occur among the team members. For example, depending on the complexity of the case, informal discussion(s) prior to the internal planning meeting are encouraged to discuss

logistical concerns such as assignment of issue(s), overlapping of multiple specialties, assignment of a team member to multiple issue teams, etc. The informal discussions will enhance the internal planning meeting by resolving issues beforehand. Any informal agreement(s) discussed should be formalized at the internal planning meeting.

4.46.3.2.5 (03-14-2016)

Risk Analysis Factors to Consider

1. The risk analysis is a process that is based on experience, judgment, and objective analysis. An issue-based approach should be used when performing the risk analysis to identify issues that are material or have significant compliance risk. Other goals of the issue-based approach are to:
 - Improve the audit planning process
 - Reduce examination cycle time
 - Improve currency
 - Enhance utilization of resources
2. The factors considered during the risk analysis process may change as additional facts are developed. Therefore, the risk analysis should be periodically revisited and updated. Priorities can be established when weighing the potential benefits and resources needed. Some of the factors that should be considered in conducting the risk analysis include but are not limited to:
 - A. Return information, including related returns, should be reviewed to determine possible large, unusual and questionable amounts. Risk assessment should ascertain the size and complexity of the case which may include related entities, changes between years and locations of entities.
 - B. Potential tax adjustment compared with the resources needed
 - C. Significant interrelated issues which, if fully developed, would require additional returns to be brought under examination. For example, recognition of income and deduction of expenses between related parties may require expansion of examination to include related parties' returns or tax treatment and valuation of assets in mergers and acquisitions.
 - D. Weighing the risks and benefits against the resources required to examine a highly complex issue, such as transfer pricing.
 - E. Consideration should be given to prior cycle issues that have been settled or are pending in Appeals. For issues that have been resolved, consideration should be given to settlement authority. See IRM 4.46.5.4.2.2. If the issue is open, teams should have on-going discussion with the taxpayer on the status of the issue before Appeals, and when settled, obtain an Appeals Case Memorandum (ACM). For those issues still pending, the ex parte rules must be followed. See Rev. Proc. 2012-18 and IRM 8.1.10.1.
 - F. Compliance consideration or items of strategic importance
 - G. LB&I directives
 - H. Financial condition of the entity - collectability
 - I. Materiality - adjustment potential
 - J. Potential impact on future years
 - K. Litigation consideration
 - L. Business risks that may result in material misstatements in financial statements
 - M. Significant changes in entity such as large acquisitions, reorganizations, or other unusual events
 - N. Significant changes in the taxpayer's industry
 - O. Significant new products, services, or new lines of business
 - P. Tax haven locations and significant changes in or expansion to different tax jurisdictions
 - Q. Operations in areas with unstable economies
 - R. High degree of complex regulations
 - S. Effective Tax Rates (ETR) – changes and trends in US and worldwide rate
 - T. Foreign Tax Credits/ limitations
 - U. Taxpayer's system and controls
 - V. The Schedule UTP must be reviewed and analyzed. It is a tool that should be used to identify the highest compliance risks among our taxpayer base and will assist us to work our issues effectively and efficiently.

4.46.3.2.5.1 (03-14-2016)

Overall Tax Impact

1. Overall tax impact should be considered when risk assessing issues. For example:
 - A. Offset of potential adjustments by different issues (e.g. foreign tax credit may be reduced or increased by an unrelated issue adjustment)
 - B. Overall tax effect of partnership adjustments. (For example, look at the big picture regarding potential dividend adjustments, which may be negligible if the primary partner is a government entity owning an 80 percent equity base for which dividends may be exempt).
 - C. Offsetting impact of potential adjustments on prior years (e.g. research credit adjustment may provide offsetting adjustment to prior year(s) research credit amount) may be reduced or increased by issue adjustment

4.46.3.2.5.2 (03-14-2016)

Analyzing Schedules M-2 and M-3

1. Schedule M-3 is a critical schedule for identifying potential tax issues resulting from both temporary and permanent differences between financial and tax accounting.
2. It is important to verify that net income per the taxpayer's books agree with net income per Schedule M-3. It is also crucial to reconcile the taxpayer's worldwide net income (or loss) on Schedule M-3 to the financial statements.
3. The taxpayer's workpapers should be obtained for selected Schedule M-3 adjustment calculations and corresponding supporting schedules. Schedule M-3 adjustments should be reviewed to identify potential issues. Inquiries should be made regarding items or transactions that have a different treatment for book and tax, but are not shown on Schedule M-3.

4. Schedule M-2 is used to analyze all changes in the retained earnings account per books during a given accounting period.
5. Retained earnings and their tax effect should be reviewed when material changes are made.
6. Tie net income per the financial statements to the Schedules M-2 and M-3 and to the year-end trial balance.

4.46.3.2.5.3 (03-14-2016)

Materiality

1. Materiality is a relative, not an absolute, concept relating to the significance of an amount, transaction or discrepancy. When risk assessing a return, information is material if a decision is changed or influenced based on the magnitude of an omission or misstatement of accounting information in light of surrounding circumstances. Absence of an item may be material.
2. The assessment of what is material is a matter of professional judgment. In setting materiality thresholds the exam team should consider both quantitative and qualitative factors. These factors include but are not limited to:

- A. Dollar value
- B. Permanency

Note:

Given equal dollar value, an item which causes a permanent difference in tax liability is more material than one that reverses in future periods

- C. Timing

Note:

Before selecting an area for examination that might result in a timing adjustment, consideration should be given to the number of years income is deferred or an expense is accelerated

3. Principles of materiality may be outweighed by other factors such as policy or compliance considerations – tax shelters, emerging issues, fraudulent items, or items contrary to public policy.

4.46.3.2.5.4 (03-14-2016)

Outside Expert Program (OEP)

1. LB&I's Outside Expert Program (OEP) provides access to outside expert services at the examination and Appeals levels. The Outside Expert Budget Committee (Committee) provides outside expert funding to LB&I examination teams to assist in the development of significant issues and to supplement the work of in-house personnel. The Committee provides cross-practice area management level oversight and guidance and acts as liaison for the OEP.
2. The services of the outside experts are justified in special situations such as the following:
 - Strategically managed issues
 - Cases involving high impact precedent setting issues
 - High dollar issues
 - High impact compliance issues
 - Significant issues where in-house expertise is limited or not available
3. When considering the use of an outside expert, the examination team management should discuss potential outside expert needs with team members who will have a primary responsibility for examination of the issue, including specialists and their management.
4. Some key factors that should be considered when requesting outside expert assistance include the following:
 - Availability of in-house specialists
 - Strategic initiatives impacted
 - Compliance/precedence impact
 - Tax revenue impact
 - Significant emerging issues
 - Counsel support for the legal foundation of the subject issue
 - High potential for litigation
5. More information can be found at <http://msb.irs.gov/hq/shsp/dpor/OEP/OEP.asp>.

4.46.3.2.6 (03-14-2016)

Documenting the Risk Analysis

1. To facilitate issue development, on-going risk assessment should occur in all cases. It is mandatory that all issue teams conduct and document an initial risk assessment.
2. Mid-cycle risk analysis is required on all CIC cases and must be approved by the Territory Manager. Mid-cycle should occur when the case reaches the earliest of either 50% of time applied or 50% of time lapsed based on ECD.
3. Mid-Cycle risk analysis is optional on IC cases with ECDs of less than 12 months. Should the ECD of an IC case be extended to exceed 12 months, an updated risk assessment is required. The issue team's risk assessment is approved by the issue manager(s) and forwarded to the case manager for concurrence. Depending on your management's practices, the risk assessment may need to be forwarded to the territory manager for approval. At mid-cycle, the issue team will submit the issue team's risk analysis to the case manager with a recommendation to continue, expand, or reduce the scope of the examination. Both the initial and mid-cycle risk analysis documents will be shared with the taxpayer once the revisions have been approved by the case and specialist managers.

4.46.3.3 (03-14-2016)

Internal Planning and Internal Planning Discussions

1. A major objective for every examination is the efficient use of resources requiring thoughtful planning from all parties involved.. Internal planning prior to meeting with the taxpayer will aid in preparing for future meetings with the taxpayer. Internal planning discussions should be considered for all situations where multiple personnel (team members or consultants) are anticipated to be involved in the examination of a return. Internal planning between the LB&I examination team allows for the creation of a unified and consistent preliminary examination plan to facilitate discussions with the taxpayer. Communication and collaboration between team members, taxpayers and managers on issues, audit procedures, timelines and other responsibilities will lead to a unified and efficient planning and execution of the examination.
2. The goals for internal planning include the following:
 - A. Preliminary issue identification
 - B. Preliminary examination procedures
 - C. Preliminary identification of LB&I issue team members
 - D. Preliminary target dates
 - E. Cover communication and administrative items
3. Factors such as organizational complexity of taxpayer, magnitude or complexity of potential issues, personnel availability, size of the team, time availability and geographic differences may lead to one or multiple planning discussions. It is important that the discussion(s) be held in a timely fashion to promote progression and continuity.

4.46.3.3.1 (03-14-2016)

Third Party Contacts

1. The need to contact third parties for the purpose of collecting or determining a tax liability should be considered early in the examination. IRC 7602(c) requires the Service to take the following actions:
 - A. Provide advance notice to the taxpayer that third party contacts may be made;
 - B. Periodically provide the taxpayer with a record of persons contacted; and
 - C. Provide a list of third parties contacted to the taxpayer upon request.
2. Review this code section for exceptions that may apply. Case and issue managers and examiners should refer to IRM 25.27.1, *Third Party Contact Program*, for procedures and exceptions to the notification requirements.

4.46.3.3.2 (03-14-2016)

Correspondence

1. RRA 98 Sec. 3705(a) provides that any manually or computer generated correspondence shall include the name, telephone number, and unique identifying number of a Service employee who can be contacted with respect to the correspondence and resolve any subsequent inquiries.

4.46.3.3.3 (03-14-2016)

Financial Interests or Other Conflicts of Interest and Disclosure

1. The case manager will ensure that each team member on the LB&I examination, including specialists and support examiners, is aware of and understands the statute requiring disclosure of any financial interests or other conflicts of interest that might create a real or apparent conflict of interest.
2. The case manager will ascertain from each team member that all financial interests which are potential conflicts of interest are properly disclosed as part of the planning process for each LB&I examination.
3. A worksheet is available for use during the planning meeting to document financial interests and disclosure. Form 13664 , *LB&I Financial Interests or Other Conflicts of Interest and Disclosure*, should be used to document whether financial interests or other conflicts exist and to document actions taken by the team manager to address potential conflicts of interest. The case manager will notate in the written examination plan that the above requirements were met for each team member.
4. Other appropriate IRM sections should be reviewed for details of conflicts of interest, disclosure procedures, and completion of Form 6782, *Certification of Financial Interest in a Work Assignment*. This form will be completed only when a potential conflict exists. The case manager will remove examiners with potential financial conflicts of interest from the case until determinations granting exemptions for financial interests are properly approved.
5. Case managers will certify to respective territory managers that there are no conflicts of interest with respect to financial interests. The case manager will follow the disclosure procedures and complete the certification form discussed in the Rules of Conduct in instances where a potential conflict may exist.

4.46.3.3.4 (03-14-2016)

Internal Planning Preparation

1. There are various internal and external sources of information available to assist the case manager and agents in identifying potential issues, determining staffing requirements, specialists needed, and the general approach to the examination. See *IRM 4.46.3.2.1*.
2. Depending on the resources deployed and the number of issues and complexity of those issues use your judgment in terms of the depth that these procedures are needed to efficiently prepare for the examination.

4.46.3.3.5 (03-14-2016)

Review of Taxpayer Information

1. For preliminary risk analysis of the return see *IRM 4.46.3.2*.
2. All available sources from past cycles should be reviewed to ascertain potential effects on current examinations. This will include a review of the Historical or Planning File Information (See *Exhibit 4.46.3-1LB&I Planning File*). Automated data is also a valuable resource.

4.46.3.3.6 (03-14-2016)

Internal Planning Discussion(s)

1. Depending upon the complexity of the case, internal discussion may involve only the team coordinator and the case manager.
2. When cases involve multiple issue team members, team members assigned to the case may need to have more formalized internal discussions prior to meeting with the taxpayer.
3. Team members assigned to the case will assess the risks of the potential issues with respect to their specialties. All team members will come to the internal planning meeting with a listing of the potential material issues and related preliminary audit procedures for consideration and collaboration.

4.46.3.3.7 (03-14-2016)

Preparation Before Internal Planning Discussions

1. Team members should be prepared for the internal discussion based on the research and data gathered related to the taxpayer and the industry. This includes the review of initial risk analysis and the Historical or Planning File information (See *Exhibit 4.46.3-1, LB&I Planning File.*) Automated data is also a valuable resource.

4.46.3.3.8 (03-14-2016)

Internal Planning Discussion Agenda

1. An agenda can be created to emphasize the objectives of the internal planning discussions. See *Exhibit 4.46.3-2 Sample Agenda Topics for Initial Internal Planning Meetings*, for a suggested list of agenda items to cover in the planning discussions.

4.46.3.3.9 (03-14-2016)

Notification of Planning Discussion(s)

1. Specialist examiners and their managers who will be involved in the examination should be notified of:
 - The date, time and method of the internal planning discussion(s)
 - The scheduled starting date of the examination
 - Data available for review
2. Other participants who may be invited to the planning discussion(s) (depending on the situation) may include the following individuals:
 - Support personnel
 - Subject Matter Experts
 - Territory Manager(s)
 - Director of Field Operations
 - Area Counsel
 - Technical Specialist(s)
 - Tax Law Specialists

4.46.3.3.10 (03-14-2016)

Holding the Internal Planning Discussions

1. Major topics to consider in internal planning discussions should include:
 - A. Team member briefing
 - B. Issue identification/risk assessment
 - C. Resource allocation and utilization (issue teams)
 - D. Setting tentative timelines for the case and issues
 - E. Review and documentation of preliminary examination procedures
 - F. Consolidation of common examination procedures
 - G. Preparation for discussions with the taxpayer
 - H. Time schedule coordination
 - I. Communication methods
 - J. Administrative procedures

4.46.3.3.10.1 (03-14-2016)

Team Member Briefing

1. Sharing important taxpayer information and issue expertise amongst the team members early may answer questions and address concerns raised from their initial risk assessment of the case.

4.46.3.3.10.2 (03-14-2016)

Issue Identification/Risk Assessment

1. During internal planning discussions potential issues identified will be discussed and risk assessed. LB&I has several initiatives on classification of issues. If you receive a case through one of those programs, follow the instructions that come from that program.

4.46.3.3.10.3 (03-14-2016)

Resource Allocation and Utilization (Issue Teams)

1. In the internal planning phase, a tentative identification of an issue team would be useful in some cases as a starting point prior to discussions with the taxpayer. For example, depending on the issue, you may want to consult with subject matter experts from International, economists, engineering, financial products, and/or computer audit. Discussion of the skills and experience of the potential team members and managers regarding the issues identified will help in determining the effective selection of the issue team members/manager.

4.46.3.3.10.4 (03-14-2016)

Setting Tentative Timelines for the Case and Issues

1. During internal planning a tentative case timeline may be established based on the projected issue(s) under consideration, for example a transfer pricing issue may be the most complex issue that would drive the case timeline. Certain factors may be known such as historical knowledge of the taxpayer or issue, statute concerns, and known administrative or legal requirements for case processing. This tentative timeline will be used to collaborate with the taxpayer during the joint planning discussions. Examples of administrative or legal case requirements may include:
 - A. Utilization of issue resolution tools such as Pre-Filing Agreements or Technical Advice Memorandums that would require additional time for the team to service the request, thereby establishing a need to extend the examination time frame. Tentative timelines for the issue(s)/case should factor in additional workload requirements.
 - B. Time specific or sensitive administrative procedures such as Joint Committee, TEFRA or informant claims (aka Form 211 Claims).

4.46.3.3.10.5 (03-14-2016)

Review and Documentation of Preliminary Examination Procedures

1. Case and tentative issue managers should collaborate to review examination procedures for each individual issue to ensure that they are appropriate. For example, audit procedures may take into consideration prior examination procedures or the applicability of issue resolution tools and prior closing agreements, etc.

4.46.3.3.10.6 (03-14-2016)

Consolidation of Common Examination Procedures

1. Tentative Issue teams should collaborate to consolidate common examination procedures and leverage taxpayer presentations such as organizational structures, product development or tours of facilities. Communication on exam procedures between issue teams will lead to efficient resource utilization.

4.46.3.3.10.7 (03-14-2016)

Preparation for Meeting with Taxpayer

1. Discuss potential topics for subsequent meetings with the taxpayer. Planning for subsequent meetings with the taxpayer should focus on objectives. Each meeting should have an agenda or plan with each party knowing their individual responsibilities. See *Exhibit 4.46.3-3, Sample Agenda for Opening Conference (Meeting)* and *IRM 4.46.3.7, Issue Discussion Meetings* for suggested topics to be discussed for meeting(s) with taxpayer.
2. IRS personnel attending meetings should be selected based on the value that they can contribute to the meeting depending upon the subject matter. Blanket invitations to taxpayer meetings for all team members should be considered only when discussions will pertain to the entire team.
3. When the examination team is scheduling the meeting with the taxpayer, they should communicate the planned agenda in advance and request that the taxpayer provide their own relevant personnel who can add value to the meeting. Communication between the taxpayer and the examination team should be ongoing to clarify attendance of essential personnel.

4.46.3.3.10.8 (03-14-2016)

Time Schedule Coordination

1. Team members should share time availability for items such as planned leave and other commitments such as other cases, special details or projects.
2. Consideration should be given to scheduling regular and periodic status discussions with and without the taxpayer for IDR updates, Issue Status updates, etc.

4.46.3.3.10.9 (03-14-2016)

Communication Methods

1. Consideration should be given to leveraging technologies. Examples include establishing a secure email arrangement with the taxpayer as well as the sharing of e-fax numbers. The case manager may consider consulting with the CAS manager to requisition a virtual server in complex and large cases to handle remote or local coordination of electronic files.

4.46.3.3.10.10 (03-14-2016)

Administrative Procedures

1. Discussions regarding administrative procedures should be held to promote consistency for case administration, taxpayer contacts and expectations for both managers and team members. Some items that should be considered include:
 - A. Instructions to team members for procedures for preparation of workpapers
 - B. Discussion of procedures for requesting information from taxpayers and monitoring the IDR management process
 - C. Discussion of procedures for requesting conferences (meetings) with taxpayers
 - D. What to expect during on-site visits by case managers
 - E. Discussion of senior team coordinator's requirement to provide feedback on team member's performance if the case has an STC.

4.46.3.3.11 (03-14-2016)

Documenting the Internal Planning Discussion(s)

1. Minutes - Upon completion of the internal planning discussion, the discussion outcomes should be summarized in narrative form. The planning agenda should be used as a template when preparing the minutes. The minutes should capture all of the agreements, decisions, arrangements, etc. made during the internal planning discussion.

4.46.3.4 (03-14-2016)

Compliance Checks Summary

1. Compliance Checks will aid in risk analysis and help to determine the scope of the audit. See *Exhibit 4.46.3-5, Compliance Checks Tool*.

4.46.3.5 (03-14-2016)

Opening Conference (Meeting)

1. The opening conference (meeting) sets the groundwork for a mutual exchange of information and understanding that will assist both the exam team and the taxpayer in defining the scope and setting expectations for carrying out the examination process.
2. Key objectives of the opening conference (meeting) are to explain the LB&I examination process to the taxpayer and to reach agreements on accommodations and coordination such as establishing the flow of communication between the taxpayer and LB&I. Depending on the timing of the opening conference (meeting), another key objective is to discuss the preliminary risk analysis of issues identified for examination.
3. Publication 5125, *LB&I Examination Process*, must be shared and interactively discussed with the taxpayer. Agenda items discussed at the opening conference (meeting) can vary depending on the type of entity, the size of the entity, and the complexity of the potential issues and the audit history of the taxpayer. See *Exhibit 4.46.3-3* for a sample opening conference (meeting) agenda.
4. A successful opening conference (meeting) occurs when both parties understand their responsibilities and agree to be accountable for how the audit is planned, executed and resolved.

4.46.3.5.1 (03-14-2016)

Opening Conference (Meeting) Agenda

1. The exam team should exercise judgment when determining what items to include on the agenda, when to hold the opening conference (meeting), and who should attend. On complex examinations it may be necessary for the team coordinator, specialists and their respective managers to attend the opening. On less complex cases, the opening meeting may consist of only the team coordinator and the taxpayer.

2. An agenda should be prepared for the meeting that covers mandatory topics as well as recommended items, including the items identified during internal planning. The exam team will provide a copy of the agenda and the preliminary risk analysis in advance to the taxpayer, so the taxpayer is aware of the agenda items and can prepare accordingly. Invite the taxpayer to add any items they would like to address during the opening conference (meeting).
3. Disclosure Safeguards - The case manager is responsible for making all arrangements authorizing discussion and exchange of information between team members and the taxpayer's personnel. It may be necessary to hold separate opening conferences in the following circumstances:
 - A. Separate meetings may be required if corporate authority is decentralized into various operating components of the company.
 - B. Separate meetings may be required to avoid unauthorized disclosure of information between related entities. (Note that the taxpayer, in these instances, may request separate examination plan sections for some of the entities.)
 - C. Only corporate officers who have the authority under State law to bind the corporation are authorized to receive confidential return information absent a power of attorney or other authorization. Examiners should be aware at all times who is in the room and that the individual has authorization to receive confidential information from the IRS. See IRM 11.3.2.4.3 which discusses what individuals in a corporation may have access to return and return information.
 - D. Separate meetings may be required to coordinate assistance of support audits.

4.46.3.5.1.1 (03-14-2016)

Sample Agenda

1. IRM *Exhibit 4.46.3-3, Sample Agenda for the Opening Conference (Meeting)*, lists recommended agenda items for discussion at the opening conference (meeting) and should be tailored depending on the type of entity, size, complexity and industry of the taxpayer, and whether they are publicly or privately held. It can also be tailored to include potential tax issues and/or transactions of the taxpayer that the team is aware of, such as: reorganizations, bankruptcies, major acquisitions or dispositions.
2. The sample agenda includes a review and discussion of the mandatory transfer pricing IDR if the return includes Forms 5471 or 5472. If not, ask the taxpayer during the opening conference if they had any cross border transactions with any entity in which they had an economic interest.

4.46.3.5.1.2 (03-14-2016)

Publicly Held Entity

1. Entities that are publicly held have published financial information that provides a basis for understanding the taxpayer's business activity, operations, accounting systems and policies, and financial data. When preparing for the opening conference (meeting), the exam team should leverage relevant public information and other tools used to assist in the preparation of the preliminary risk analysis. See *IRM 4.46.3.2.1* for a list of available information.

4.46.3.5.1.3 (03-14-2016)

Privately Held Entity

1. The type of agenda items and inquiries in an opening conference (meeting) for a privately held entity may be different from those of a publicly held entity. Public information may not be as readily available for a privately held entity and therefore the opening conference is an opportunity for the examiner to obtain information about the entity. The opening conference (meeting) is a method to obtain information needed to reach informed decisions to help establish the scope and depth of an examination. See *IRM 4.46.3.2.1* for a list of available information.

4.46.3.5.1.4 (03-14-2016)

Suggested Inquiries

1. Suggested inquiries to assist in setting the scope of the examination are, but not limited to:
 - An understanding of the internal controls of the company, the taxpayer's financial and accounting policies, business activities, structure of operations
 - An understanding of how the books and records of the taxpayer are maintained and organized
 - A review of the company's certified audit statements or other company financial or regulatory reviews
 - An explanation of potential tax issue identified for examination including large, unusual or questionable items on the tax return
 - A review of significant transactions
2. For additional guidelines on opening questions, see "Opening Conference (meeting) Questions" at http://msb.irs.gov/reference/audit_tools/Job_Aids/AuditAids.asp.

4.46.3.5.2 (03-14-2016)

Timing of Opening Conference (Meeting)

1. Depending on the size and type of the entity, the exam team may decide it is more efficient to hold an administrative opening conference before the internal planning meeting. If the internal planning meeting has occurred, the opening conference (meeting) would be combined to include both the administrative items and a discussion of the preliminary risk analysis.
2. Separate opening conference meetings may be required if the taxpayer is decentralized into various operating entities.
3. The 30-day window for accepting informal claims will start at the first opening conference held. The taxpayer should be made aware of the last date to submit informal claims.
4. The timing of the opening conference and whether to hold an administrative-only opening conference or combined with the preliminary risk analysis is up to the judgment of the exam team.

4.46.3.5.3 (03-14-2016)

Administrative-Only Opening Conference (Meeting)

1. Audits may require a separate opening conference to discuss administrative items and a separate meeting to discuss the preliminary risk analysis.
2. For example, during the examination of a small, privately-held entity with limited public information, the team coordinator may want to hold the opening conference before an internal planning meeting to gain a better understanding of the taxpayer's business and activities, and to review the taxpayer's books and records, before submitting a referral for a specialist. In this situation, the team coordinator can make a more informed specialist referral or consult after the opening conference (meeting) and then conduct the internal planning meeting with the specialist(s).
3. In another example, with large complex taxpayers, the opening conference (meeting) may serve only as an administrative meeting before the internal planning meeting is held. In this situation, the preliminary risk analysis would be prepared after the administrative opening conference (meeting). A subsequent meeting would then be scheduled for the exam team and the taxpayer to discuss the preliminary risk analysis.

4.46.3.5.4 (03-14-2016)

Combined Administrative and Preliminary Risk Analysis Opening Conference (Meeting)

1. The opening conference (meeting) can be combined to include administrative items as well as a discussion of the preliminary risk analysis prepared during internal planning meeting(s). The exam team may determine that it is more efficient to combine the administrative items and the preliminary risk analysis discussion during the opening conference (meeting).

4.46.3.5.5 (03-14-2016)

Discussion of Preliminary Risk Analysis

1. The preliminary risk analysis will be shared and discussed with the taxpayer with the intent of obtaining information that will help the exam team to narrow or focus the scope of the audit on the most significant issues.
2. The exam team should describe to the taxpayer their concerns as to why each tax issue has been initially selected for audit. If the taxpayer is unable to alleviate the exam team's tax concerns regarding an issue, then the following objectives should be addressed at either the opening conference (meeting) or at separate issue discussion meeting(s) with the taxpayer:
 - A. Select which issues or aspects of a particular issue warrant examination
 - B. Identify LB&I team members and taxpayer personnel to include on each issue team
 - C. Establish effective and efficient initial audit steps
 - D. Determine an estimated timeline and issue completion date for each issue as needed

4.46.3.5.6 (03-14-2016)

Opening Conference (Meeting) Participants

1. The opening conference (meeting) should be conducted by the case manager (or delegated to the team coordinator) and attended by the team coordinator and other team members including specialist manager(s) whose attendance adds value by being able to discuss potential issues or assist in gathering information. It is important to remember that the opening conference (meeting) is a working conference (meeting). If the taxpayer will be presenting a thorough overview of their business activities, operational structure, and accounting systems, team members that will benefit should attend. Participants who add value can be determined during internal planning or other discussions with the team coordinator, case manager, and specialist manager(s).
2. For complex cases or large examination teams, there may be value in conducting an internal pre-meeting before the opening conference (meeting) to review the opening conference (meeting) agenda and confirm the role of each exam team member attending. In some instances the pre-meeting may coincide with the internal planning meeting.
3. The opening conference (meeting) should include the head of the tax department and other appropriate key employees who can adequately discuss the agenda items as well as the preliminary risk analysis. Only corporate officers are authorized to receive confidential return information absent a power of attorney or other authorization. Examiners should be aware at all times who is in the room and that the individual has authorization to receive confidential information from the IRS. Refer to IRM 4.11.55, *Examining Officers Guide (EOG), Power of Attorney Rights and Responsibilities*.
4. If the preliminary risk analysis is to be discussed at the opening conference (meeting) agenda, the exam team member(s) who can explain to the taxpayer why each issue is being considered for examination should attend. For issues selected for examination, the appropriate taxpayer personnel and exam team member(s) should work together to develop initial audit steps.

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