

The New IDR Initiative and Its Impact on the IDR Process

6th Annual Tax Controversy Forum



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Gathering Information: The IDR

□ IRM 4.10.3.1 (03-01-2003):

- Auditing includes the accumulation of evidence for evaluating the accuracy of the taxpayer's tax return(s). Evidence takes many forms, including the taxpayer's testimony, the taxpayer's books and records, the examiner's own observations and documents from third parties.
- It is important to obtain sufficient competent evidence to determine the accuracy of the taxpayer's return. Every examiner must determine the appropriate amount of evidence to accumulate and establish the proper depth of the examination. This decision is a matter of judgment and important because of the prohibitive cost of examining and evaluating all available evidence.

Authority to Issue IDRs

- ❑ I.R.C. §7602(a) authorizes the IRS to “examine any books, papers, records, or other data which may be relevant or material” and “take such testimony” as necessary in order to determine the tax liability.
- ❑ There is no penalty in the Internal Revenue Code for failure to respond to an IDR. (But there may be other consequences— e.g. impacting the ability to shift the burden of proof to the IRS under section 7491(a)(2)(B).)
- ❑ The IDR is the primary tool that the IRS uses to gather information when conducting examinations, but the IDR has no enforcement mechanism, and IRS must issue a summons in order to seek to enforce compliance.

Use of IDRs During Examination

- “Form 4564 should be used to request information from the taxpayer. Each IDR should be specific, clear, and concise. IRM 4.46.4.4 outlines the Individual Document Request Management Process. This is a structured process generally used when gathering information during an examination. The process encourages collaboration between the taxpayer and IRS personnel to agree on and provide information needed to support an examination. The IDR process will be discussed during the opening conference.”

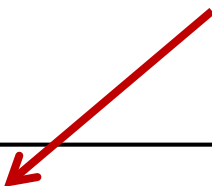
IRS Website - <http://www.irs.gov/Businesses/Information-Document-Requests> See IRM 4.46.4.4.1 (03-01-2006)

- “Form 4564 will be used to document all requests information and documents needed to support items being examined. * * * Examiners should always carefully consider what data is necessary. Requests should be specific and should avoid requesting more information than is essential to resolve the issues identified.”

IRM 4.10.2.9.2 (1-17-2012)

Use of IDRs During Examination (cont.)

- ❑ IRM 4.46.4.4.3 (03-01-2006): Exception Guidelines for Delinquent Procedures (IDRs)
 - “The IDR Management Process does not preclude the examination team from using judgment on an issue-by-issue basis.”



Information Due By _____	At Next Appointment <input type="checkbox"/>	Mail in <input type="checkbox"/>	
From:	Name and Title of Requester	Employee ID number	Date (mmddyyyy)
	Office Location		Telephone Number ()

Catalog Number 23145K www.irs.gov Part 1 - Taxpayer's File Copy Form **4564** (Rev. 9-2006)

LB&I's New IDR Process

- LB&I has issued 3 Directives on IDRs:
 - Directive LB&I 04-0613-004 (June 18, 2013)
 - Directive LB&I 04-1113-0009 (November 4, 2013)
 - Directive LB&I 04-0214-004 (February 28, 2014)



Large Business and International Directive on Information Document Requests Enforcement Process

February 28, 2014

LB&I Control No: LB&I-04-0214-004
Impacted IRM 4.46.4

MEMORANDUM FOR LB&I Employees
FROM: Heather C. Maloy
 Commissioner, Large Business & International Division
SUBJECT: Updated Guidance for Examiners on Information Document
 Requests Enforcement Process

Form 4564 (Rev. September 2008)	Department of the Treasury — Internal Revenue Service Information Document Request	Request Number
To: (Name of Taxpayer and Company Division or Branch)		Subject
Please indicate Part 1 with listed documents to requester identified below Description of documents requested		SAIT number Submitted to: Dates of Previous Requests (mm/yyyy)

Information Due By	At Next Appointment <input type="checkbox"/>	Mail in <input type="checkbox"/>
Name and Title of Requester	Employee ID number	Date (mm/yyyy)
From:	Office Location	Telephone Number ()

Catalog Number 23145K www.irs.gov Part 1 - Taxpayer's File Copy Form **4564** (Rev. 9-2008)

IDR Directive: Stated Objectives

- ❑ “...to make the IDR process as efficient and transparent as possible”
- ❑ “...improve our ability to gather information timely and reduce the need to enforce IDRs through summonses”
- ❑ “...IRS will be better able to manage field specialists, determine reasonable estimated closing dates, and reduce unproductive time waiting for information”
- ❑ “...taxpayers will be better able to manage their tax department resources with focused IDR requests that have reasonable time frames”

IDR Directive: Components

There are two parts to the new IDR process

❑ Requirements for Issuing IDRs

- 12 point list of requirements for the issuance of IDRs

❑ IDR Enforcement Process

- Three graduated steps – (1) Delinquency Notice, (2) Pre-Summons Letter, and (3) Summons

DIRECTIVE LB&I 04-0214-004 (FEBRUARY 28, 2014)

Requirements for Issuing IDRs

- ❑ Discuss the issue with the taxpayer
- ❑ Discuss how the IDR request is related to the issue and why it is necessary to develop the issue
- ❑ After discussions, determine what information will be requested
- ❑ The IDR must clearly state the issue and seek information relevant to that issue (exception for IDRs at beginning of the examination that request basic books and records and general information about the taxpayer's business)

ATTACHMENT 1, DIRECTIVE LB&I 04-0214-004 (FEBRUARY 28, 2014)

Requirements for Issuing IDRs (cont.)

- ❑ IDR limited to a single issue
- ❑ IDRs numbered or lettered
- ❑ IDR request must be clear and concise
- ❑ Show taxpayer the IDR draft and discuss (generally to be completed within 10 days)
- ❑ Determine with taxpayer a reasonable response timeframe
- ❑ If no agreement, set reasonable response date
- ❑ IRS to commit to a completion date for review and response to the taxpayer as to whether the response satisfies the IDR

ATTACHMENT 1, DIRECTIVE LB&I 04-0214-004 (FEBRUARY 28, 2014)

IDR Enforcement Process

☐ Extension Authority:

- Agents have the authority to grant extensions of up to 15 days in two limited circumstances
- Within 5 days of a failure to respond (or incomplete response), agent or specialist will discuss with the taxpayer
- If no extension granted, then the enforcement process begins

ATTACHMENT 2, DIRECTIVE LB&I 04-0214-004 (FEBRUARY 28, 2014)

IDR Enforcement Process (cont.)

- ❑ IDR response received timely:
 - Taxpayer notified if the IDR is complete and the IDR is closed

- ❑ IDR enforcement process is mandatory
 - “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, DIRECTIVE LB&I 04-0214-004 (FEBRUARY 28, 2014)

IDR Enforcement Process (cont.)

❑ Delinquency Notice:

- Discuss the Delinquency Notice (Letter 5077) with the taxpayer
- Issue Delinquency Notice signed by Team manager within 10 days
- Delinquency Notice will request response within “generally no more than 10 business days”
- Copy of Delinquency Notice provided to assigned IRS Counsel

ATTACHMENT 2, DIRECTIVE LB&I 04-0214-004 (FEBRUARY 28, 2014)

IDR Enforcement Process (cont.)

❑ Pre-Summons Letter:

- If taxpayer does not respond to the Delinquency Notice, then a pre-summons letter (Letter 5078) will be issued (“the examiner must complete the next phase of the enforcement process”)
- Agent will discuss the matter with IRS management and Counsel
- Pre-Summons Letter (signed by Territory Manager) issued no later than 10 business days after due date in Delinquency Notice
- Pre-Summons Letter is sent to management official above the tax director and “at a level equivalent to the LB&I Territory Manager”
- 10-day response date


ATTACHMENT 2, DIRECTIVE LB&I 04-0214-004 (FEBRUARY 28, 2014)

IDR Enforcement Process (cont.)

☐ Summons:

- If no/incomplete response to Pre-Summons letter, the agent will discuss the matter with IRS management officials and Counsel and prepare a summons

ATTACHMENT 2, DIRECTIVE LB&I 04-0214-004 (FEBRUARY 28, 2014)

 **Summons**

In the matter of _____
Internal Revenue Service (Division): _____
Industry/Area (name or number): _____
Periods: _____

The Commissioner of Internal Revenue


To: _____
At: _____

You are hereby summoned and required to appear before _____ an office of the Internal Revenue Service, to give testimony and to bring with you and to produce for examination the following books, records, papers, and other data relating to the tax liability or the collection of the tax liability or for the purpose of inquiring into any offense connected with the administration or enforcement of the internal revenue laws concerning the person identified above for the periods shown.

Do not write in this space

Business address and telephone number of IRS officer before whom you are to appear: _____

Place and time for appearance at _____

 on the _____ day of _____ at _____ of clock _____ m.
Issued under authority of the Internal Revenue Code this _____ day of _____ (year) _____ (year)

Department of the Treasury
Internal Revenue Service
www.irs.gov

Signature of issuing officer _____ Title _____
Signature of approving officer (if applicable) _____ Title _____

Form 2039 (Rev. 12-2001)
Catalog Number 21405J

Original -- to be kept by IRS

New IDR Process: Miscellaneous

❑ Agent Training

- There have been two mandatory training sessions (one on IDR issuance requirements and one on enforcement)

DIRECTIVE LB&I 04-0214-004 (FEBRUARY 28, 2014)

❑ IDR Process FAQs

- IRS may post Frequently Asked Questions and Answers to offer informal guidance

“FAQS COMING ON REVISED IDR ENFORCEMENT PROCEDURES”, DOC. 2014-7116, 2014 TNT 58-3

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LB&I IDR Delinquency Notice
Letter 5077



Department of the Treasury
Internal Revenue Service

Date:

Taxpayer ID number:

Form:

Tax period(s):

IDR number:

IDR date of issue:

IDR due date:

Person to contact:

Contact telephone number:

Employee ID number:

Delinquency Notice

Dear

We sent you the enclosed Form 4564, *Information Document Request (IDR)*, and you haven't provided us with all of the information we requested by the response date. This letter informs you that your response is delinquent. If you do not fully respond to the IDR by _____, you will receive a pre-summons letter.

Send all of the information and documents we requested no later than _____. The enclosed IDR shows the information we still haven't received.

If you have questions, please contact the person whose name and telephone number are shown above.

Thank you for your cooperation.

Sincerely,

Enclosures:
Form 4564

LB&I Pre-Summons Letter
Letter 5078



Department of the Treasury
Internal Revenue Service

Date:

Taxpayer ID number:

Form:

Type of tax:

Tax period(s):

IDR number:

IDR date of issue:

IDR due date:

Person to contact:

Contact telephone number:

Employee ID number:

Pre-Summons Letter

Dear

We sent you a Delinquency Notice with respect to the enclosed Forms 4564, *Information Document Request (IDR)*. We still have not received your responses to these IDRs. Specifically, we still need responses for . We want to complete this examination as timely and efficiently as possible. However, we haven't been able to proceed with the examination because you failed to fully respond to our IDRs.

Because you haven't responded, we are issuing you this Pre-Summons Letter. Unless you provide us with complete responses within ten days of the date of this letter, we will issue a summons for the outstanding IDR responses, which will formally require you to produce the information and documents in those IDRs.

If you have questions, please call the person whose name and telephone number are shown above.

Thank you for your cooperation.

Sincerely,

Enclosures:
Form 4564

LB&I Directive on Information Document Requests Enforcement Process

LB&I 04-0214-004

February 28, 2014

Large Business and International Directive on Information Document Requests Enforcement Process

February 28, 2014

LB&I Control No: LB&I-04-0214-004
Impacted IRM 4.46.4

MEMORANDUM FOR	LB&I Employees
FROM:	Heather C. Maloy Commissioner, Large Business & International Division
SUBJECT:	Updated Guidance for Examiners on Information Document Requests Enforcement Process

The Large Business & International (LB&I) Division has issued two Directives relating to Information Document Requests (IDRs); Directive LB&I-- 04-0613-004 issued on June 18, 2013 and Directive LB&I-04-1113-009 issued on November 4, 2013 (the "Prior Directives"). These Directives reflect, in part, the best practices applicable to IDRs that are being utilized by LB&I examiners across the Division. This Directive incorporates and supersedes the Prior Directives and provides further clarification of the use of the new IDR processes.

This clarification is necessary to ensure that the procedures governing IDR issuance and enforcement are easily and clearly understood. In addition, it is important to continue to emphasize the importance of both the IRS and taxpayers engaging in robust discussions that include the issue that is the subject matter of an IDR, what information is necessary to evaluate that issue and why, what information the taxpayer has and how long it will take to provide it, and how long it will take the IRS to review the information for completeness and respond to the taxpayer.

Meaningful communication between the IRS and taxpayers in advance of an IDR being issued is essential to provide efficiencies for both parties. For example, the IRS will be better able to manage field specialists, determine reasonable estimated closing dates, and reduce unproductive time waiting for information. Similarly, taxpayers will be better able to manage their tax department resources with focused IDR requests that have reasonable time frames.

It is anticipated that when both the IRS and taxpayers engage in robust, good faith communication in advance of an IDR being issued, enforcement procedures will be needed only infrequently.

Introduction

Over the last several months, all LB&I examiners and specialists should have completed two mandatory training sessions on 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.

Planning and Examination Guidance

This Directive incorporates 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. Attachment 1 to this Directive contains a summary of the Requirements for Issuing IDRs. In addition, this Directive sets forth the enforcement process that must be used when a taxpayer does not timely and completely 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. Attachment 2 to this Directive describes the IDR Enforcement Process.

There is one exception to the requirement that an IDR state an issue. An IDR that is issued at the beginning of an examination that requests basic books and records and general information about a taxpayer's business is not subject to this requirement. All other IDRs must state an issue in compliance with the requirements in Attachment 1.

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.

If during the discussion of an IDR, a taxpayer indicates that the requested information will not be provided without a Summons, the IDR enforcement procedures do not apply and the IRS should move directly to the issuance of a Summons.

Pursuant to this Directive, the IDR Enforcement Process is effective beginning March 3, 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 April 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. An IDR issued at the beginning of an examination that requests basic books and records and general information about a taxpayer's business is not subject to this requirement 4. Once this initial IDR has been issued, subsequent IDRs must state an issue in compliance with this requirement 4.
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. Generally, this process should be completed within 10 business days.
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. Note this date on the IDR.

Attachment 2

LB&I Directive on Information Document Requests (IDRs)

IDR Enforcement Process

IDRs that are issued in compliance with the requirements of Attachment 1 are subject to the enforcement process set forth in this Attachment 2.

This 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. The timing of the application of the Enforcement Process is set forth below in a separate section.

Extension Authority

Before the Enforcement Process is triggered, an examiner or specialist has the authority to grant a taxpayer an extension of up to 15 business days before the Enforcement Process begins. This extension may be granted in the following two situations. An examiner or specialist may grant one extension with respect to the same IDR.

1. **Taxpayer Fails to Respond.** If a taxpayer fails to provide any response by the IDR due date, the examiner or specialist, should, within 5 business days of the IDR due date, discuss with the taxpayer the cause of the failure to respond and determine if an extension is warranted. If the examiner or specialist determines that the taxpayer's explanation warrants it, the examiner or specialist may grant the taxpayer an extension of up to 15 business days from the date the extension determination is made and communicated to the taxpayer.
2. **Taxpayer Provides Incomplete Response.** If a response is received but the examiner or specialist determines that it is not complete, the examiner or specialist should discuss with the taxpayer the reasons why the response is not complete and determine within 5 business days whether an extension is warranted. If the examiner or specialist determines that the taxpayer's explanation warrants it, the examiner or specialist may grant the taxpayer an extension of up to 15 business days from the time the extension determination is made and communicated to the taxpayers.

Timing of application of IDR Enforcement Process

The timing of the application of the IDR Enforcement Process is set forth below.

No Response Received by Due Date

1. If no response is received by the IDR due date and no extension is granted, the IDR enforcement process begins on the date the extension determination is communicated to the taxpayer.
2. If an extension is granted and no response is received by the extended due date, the IDR enforcement process begins as of the extended due date.

Response Received by Due Date

If a response is received by the due date, the IRS must determine whether the response is complete. This determination should be made on or before the date the examiner or specialist stated in the IDR.

1. **If the IDR is considered complete upon review**, the examiner or specialist must notify the taxpayer that the IDR is complete and closed.
2. **If the IDR response is not complete**, the timing of the enforcement process is as follows:
 1. **If the IDR response is not complete, and no extension is granted**, the IDR enforcement process begins on the date the extension determination is communicated to the taxpayer.
 2. **If the IDR response is not complete and an extension is granted**
 1. If no additional information is received at the end of the extension period (may be up to 15 business days), the IDR enforcement process begins at the end of the extension period.
 2. If additional information is received at the end of the extension period, this information must be reviewed for completeness. This review should be completed as soon as practical but in

most cases not more than 15 business days from receipt of the response. If the IDR response is determined to be incomplete, the IDR enforcement process begins on the date the examiner or specialist notifies the taxpayer that the response remains incomplete. If the IDR is complete, the examiner or specialist should notify the taxpayer and close the IDR.

IDR Enforcement Process

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)

Once the IDR Enforcement Process applies based on the timing described in section titled "Timing of application of IDR Enforcement Process," the examiner or specialist along with their manager must complete the first phase of the enforcement process, the Delinquency Notice, by following the procedures described below:

1. 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.
2. Issue the Delinquency Notice signed by the Team Manager to the taxpayer within 10 days of the application of the Enforcement Process.
3. The Delinquency Notice should include a response date that is generally no more than 10 business days from the date of the Delinquency Notice. A Territory Manager must approve any date beyond 10 business days.
4. 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 Delinquency Notice response date, the examiner or specialist must complete the next phase of the enforcement process, the Pre-Summons Letter, by following the procedures described below:

1. Discuss the lack of a complete 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 must 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 10 business 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 business days from date of Pre-Summons letter.

5. A Director of Field Operations (DFO) must approve any date beyond the 10 business days 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 Pre-Summons Letter response date, the examiner or specialist must 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.

LB&I Directive on Information Document Requests Enforcement Process

LB&I 04-1113-009

November 4, 2013

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

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.

LB&I Directive on Information Document Requests Enforcement Process

LB&I 04-0613-004

June 18, 2013

Large Business & International Directive on Information Document Requests (IDRs)

LB&I Control No: LB&I-04-0613-004
Impacted IRM 4.46.4

June 18, 2013

MEMORANDUM FOR: ALL LARGE BUSINESS & INTERNATIONAL EMPLOYEES
FROM: Paul D. DeNard /s/ Paul D. DeNard
Acting Commissioner, Large Business & International Division
SUBJECT: Large Business & International Directive on Information Document Requests (IDRs)

Introduction

By now, all LB&I examiners and specialists should have completed the mandatory training on IDRs. This training reinforced best practices for information gathering in LB&I examinations. The training sets forth several actions that must be performed in issuing IDRs. First and foremost, the training states that all IDRs issued during the course of an LB&I examination must be issue focused. That is, the examiner must identify and state the issue that has led the examiner to request the information included in the IDR. In addition, the examiner must discuss the IDR with the taxpayer in advance of issuing it, and both parties must discuss and determine a reasonable timeframe for response.

When all of these steps are followed, the expected outcome is that the IDR process will be more efficient, and as a result, there will be less need to enforce IDRs through summonses.

Planning and Examination Guidance

The purpose of this Directive is to announce the requirement that all IDRs issued after June 30, 2013, must comply with the principles set forth in the training - IDRs must be issue focused, they must be discussed with the taxpayer, and the taxpayer and the agent need to discuss the appropriate deadline for the request. As part of this implementation, existing Memorandums of Understanding relating to IDR management that do not comply with the principles set forth in the training are no longer effective.

In the coming months, we will be announcing changes to the IDR enforcement process. While, as stated above, we believe the need for an enforcement process may be limited once IDRs meet the requirements described in the training, it is important to have an effective and swift enforcement process when one is necessary. Before the new enforcement process is implemented, however, it is essential that all IDRs issued during the course of an LB&I examination meet the requirements discussed in the training. This Directive ensures that will occur.

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

cc: Division Counsel, LB&I