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Inside This Issue

IRS Announces Two New Appeals Programs

WASHINGTON – The Internal Revenue Service today announced a two-year test of two programs: the post-Appeals mediation and arbitration procedures for Offer in Compromise (OIC) and Trust Fund Recovery Penalty (TFRP).

Beginning Dec. 1, 2008, for a two-year test period, Appeals will offer post-Appeals mediation and arbitration for OIC and TFRP cases for taxpayers whose appeals are considered at the Appeals office in Atlanta, Ga.; Chicago, Ill.; Cincinnati, Ohio; Houston, Texas; Indianapolis, Ind.; Louisville, Ky.; Phoenix, Ariz.; and San Francisco, Calif.

Under these two alternative dispute resolution programs, the taxpayer or Appeals may request nonbinding mediation. The taxpayer may decline Appeals' request for mediation. Appeals will evaluate a taxpayer's request for mediation based on the criteria detailed in Revenue Procedure 2002-44 and Announcement 2008-111. A request for binding arbitration must be made jointly by the taxpayer and Appeals. The mediation and arbitration procedures do not create any additional authority for settlement by Appeals.

During the test period, Appeals employees will advise the taxpayer of the availability of these alternative dispute strategies and the deadline for timely requesting such strategies when a rejection of an OIC is sustained or a proposed TFRP assessment is sustained. An OIC submitted during Collection Due Process (CDP) as an alternative to a Collection action is not eligible for these alternative dispute resolution strategies during the test period.

The Post-Appeals mediation process is available for both legal and factual issues. The mediator's role is to facilitate settlement negotiations so the parties can reach their own agreement. The mediator does not have settlement authority over any issue.

The Arbitration procedure is available for factual issues only. The arbitrator's role is to hear both sides of a disputed issue and then render a decision on the specific factual issue being arbitrated. This decision is binding on both parties. However, the arbitrator does not have the authority to decide that the

offer in compromise itself must be accepted or that a person is/is not liable for the TFRP under § 6672. Neither party may appeal the decision of the arbitrator or contest the decision in any judicial proceeding.

Complete procedures for initiating a request for post-Appeals mediation or arbitration are in [Announcement 2008-111](#). The agency will seek appropriate Offer in Compromise and Trust Fund Recovery Penalty cases for both post-Appeals mediation and arbitration during the two-year test period in order to evaluate the effectiveness of alternative dispute resolution for these cases.