

**EXHIBIT 7-A**



**Department of the Treasury  
Internal Revenue Service  
Tax Exempt and Government Entities**  
450 Golden Gate Avenue MS 7401  
San Francisco, CA 94102

Monterey Peninsula Water Management District  
Attn: Suresh Prasad, CFO  
5 Harris Court, Building G  
Monterey, CA 93940

RECEIVED

MAR 11 2019

MPWMD

Date:  
03/08/2019  
Taxpayer ID number:  
94-2535586  
Form:  
941 and 945  
Tax periods ended:  
201612  
Person to contact:  
Cheryl Borella  
Contact telephone number:  
415-837-6653  
Contact fax number:  
855-266-1413  
Employee ID number:  
1000676902  
Refer reply to:  
Cheryl Borella  
Response due date:  
04/05/2019

Dear Monterey Peninsula Water Management District:

We're proposing changes to your employment tax for the tax periods listed above as shown in the enclosed examination report. You must tell us whether you agree or disagree with the proposed changes by the response due date listed above. This letter (known as a 30-day letter) notifies you of your rights to appeal the proposed changes within 30 days.

We've enclosed the following forms:

- Form 4666, Summary of Employment Tax Examination,
- Form 4667, Examination Changes - Federal Unemployment Tax, and/or,
- Form 4668, Employment Tax Examination Changes Report.

These documents show how we calculated the proposed amount of your additional employment tax. These amounts do not include any interest that may apply. If we propose any adjustments for employment tax that involve a worker classification or Section 530 determination, we'll also send you a separate letter, Letter 950-C, Employment Tax 30-Day Letter-T.

**If you agree with the proposed changes**

1. Sign and date the enclosed agreement form, either Form 2504, Agreement to Assessment and Collection of Additional Tax and Acceptance of Overassessment (Employment Tax Adjustments Not Subject to IRC 7436), or Form 2504-S, Agreement to Assessment and Collection of Additional Tax and Acceptance of Overassessment (Employment Tax Adjustments Not Subject to IRC 7436; Worker Classification or Section 530 Issues Not Addressed in this Exam). Sending us a signed Form 2504 or Form 2504-S gives us permission to assess the proposed amounts. Signing Form 2504 or Form 2504-S won't prevent you from filing a claim for refund if you later believe you're entitled to a refund. It won't prevent us from later determining, if necessary, that you owe additional tax, nor extend the time provided by law for us to assess additional tax or for you to file a claim for refund.
2. Return the signed Form 2504 or Form 2504-S to us by the response due date at the top of this letter. We've enclosed an envelope for your convenience.

## EXHIBIT 7-A

3. Enclose payment for the employment tax and additions to tax and penalties due. Make your check or money order payable to the "United States Treasury" and provide on each payment your:
- Name
  - Address
  - Employer identification number
  - Daytime telephone number
  - Tax periods
  - Tax form

We'll bill you for applicable interest, if any. If you pay now, you'll limit the amount of any interest, additions to tax, and penalties charged to your account. If you agree with the proposed changes but can't pay the full amount, we'll bill you for the unpaid amount.

You may qualify for interest-free treatment if the amounts underreported don't relate to an issue raised in an examination of a prior period and if you didn't knowingly underreport your employment tax liability. In order for the adjustment to be entirely interest-free, you must pay the amount due when you submit the signed Form 2504 or Form 2504-S. Otherwise, interest will accrue from the date you submit the signed Form 2504 or Form 2504-S. Even if you don't make payment until after receipt of notice and demand, you may still be entitled to interest-free treatment up to the date you submit the signed Form 2504 or Form 2504-S. However, interest will accrue from the date you submit the signed Form 2504 or Form 2504-S until the date of payment.

Refer to Publication 5146, Employment Tax Returns: Examinations and Appeal Rights, for payment options. You can get this publication by visiting our website at [www.irs.gov/forms-pubs](http://www.irs.gov/forms-pubs) or by calling 800-TAX-FORM (800-829-3676). If you're a debtor in a bankruptcy case, you should only make payment in accordance with the Bankruptcy Code.

### **If you do not agree with the proposed changes**

You can request a meeting or telephone conference with the supervisor of the contact person listed on the front page of this letter. If you still disagree after the meeting or telephone conference, you can request a conference with our Appeals Office. If you want a conference with an Appeals officer, you'll need to submit either a small case request or a formal written protest with the contact person listed on this letter by the response due date. Based on the total changes to your employment tax for each tax return and tax periods listed, we've indicated in the box checked below whether you need to submit a small case request or a formal written protest:

**Note:** If, in a separate letter, we proposed any employment tax adjustments for a tax return and tax period that involve a worker classification or Section 530 determination, we included those proposed adjustments in tax (including additions to tax and penalties) in computing the total amount.

**Small case request.** Because the total amount of the proposed changes to your tax, additions to tax, and penalties is \$25,000 or less for all referenced tax returns for the tax periods indicated, you can send us a letter requesting consideration by Appeals. List the issues you don't agree with and the reasons why you don't agree. If you don't want to write a separate letter, you can complete the enclosed Form 13683, Statement of Disputed Issues, and return it to us.

**Formal protest.** Because the total amount of the proposed changes to your tax, additions to tax, and penalties is more than \$25,000 for any referenced tax return for a tax period, you must submit a formal protest.

**Note:** If more than one tax period is involved and any tax period exceeds the \$25,000 threshold, you must submit a formal written protest for all periods involved. You cannot use Form 13683 to make a formal protest.

## **EXHIBIT 7-A**

For Appeals to have enough time to consider your case, the period of limitation to assess additional tax generally must have at least 365 days remaining when Appeals receives it. If we need additional time, we'll request your consent to extend the period. If you don't consent to extend the period, we'll close your case based on the proposed changes and assess the employment tax (explained below).

If you request a conference with our Appeals Office, an Appeals officer will call you (if necessary) for an appointment to look at your case. The Appeals Office is an independent office and most disputes considered by that office are resolved informally and promptly. By requesting a conference with our Appeals Office, you may resolve the matter sooner.

Publication 5 explains the requirements for filing a formal protest. Publication 5146 includes information on the Declaration of Taxpayer Rights and the IRS Collection Process.

### **What will happen if you don't reach an agreement with our Appeals Office or if you don't respond to this letter by the response due date**

We'll assess the employment tax and any applicable interest, additions to tax, and penalties, and notify you of the balance due.

You can seek judicial review of the assessment by filing a refund suit in the United States District Court that has jurisdiction or in the United States Court of Federal Claims. Note that, before you can file a refund suit, you must pay to the IRS the amount of employment tax that relates to one worker for one tax period and file a claim for refund with the IRS. If the IRS denies your claim for refund (or the IRS doesn't respond to the refund claim within six months), you can file a refund suit and challenge the employment tax assessment. You generally have two years from the date the IRS denies your claim to file suit. The United States Tax Court does not have jurisdiction to review this employment tax case because it does not involve a worker classification or Section 530 determination.

If you have questions about this letter, you can contact the person listed on the front page of this letter. If this number is outside your local calling area, you may receive a long distance charge. You can call the Business and Specialty Tax Line at 800-829-4933 or visit your local IRS office to get general information. If you prefer to write to us, include a copy of this letter, your telephone number and the hours we can reach you. Keep the original letter for your records.

You also have the right to contact a Taxpayer Advocate. The Taxpayer Advocate Service (TAS) is an independent organization within the IRS that can help protect your taxpayer rights. TAS can offer you help if your tax problem is causing a hardship, or you've tried but haven't been able to resolve your problem with the IRS. If you qualify for TAS assistance, which is always free, TAS will do everything possible to help you. Visit [www.taxpayeradvocate.irs.gov](http://www.taxpayeradvocate.irs.gov) or call 877-777-4778.

**Mail all responses to:** Internal Revenue Service  
Attn: Cheryl Borella  
450 Golden Gate Avenue, MS 7401  
San Francisco, CA 94102

**EXHIBIT 7-A**

We've enclosed an envelope for your convenience.

Thank you for your cooperation.

Sincerely,  
Dwayne A.  
Jacobs

Digitally signed by Dwayne A.  
Jacobs  
Date: 2019.03.08 12:21:21  
-07'00'

Maria Hooke  
Director, Exempt Organizations Examinations

Enclosures:  
Copy of this letter  
Examination Report  
Publication 5  
Form 4666  
Form 4668-B  
Form 2504-S  
Form 13683  
Envelope

**EXHIBIT 7-A**

**Summary of Employment Tax Examination**

Name and Address of Employer <b>Monterey Peninsula Water Management District</b> 5 Harris Court, Building G Monterey CA 93940			Type of Report <input type="checkbox"/> Delinquent tax (Return not filed) <input checked="" type="checkbox"/> Increase (Decrease) in tax (Return filed) <input type="checkbox"/> Agreed (This report is subject to review and you will be notified by the Director when it is accepted) <input checked="" type="checkbox"/> Unagreed <input checked="" type="checkbox"/> Non-7436 adjustments <input type="checkbox"/> 7436 adjustments (worker classification issues) <input type="checkbox"/> 7436 adjustments (wage issues)
Employer Identification Number <b>94-2535586</b>	Date of Report <b>March 8, 2019</b>		

Following is a summary of the results of my examination of your returns as shown on the attached pages of this report.

Tax, Credits and Penalties							
a Calendar Year	b Return Form Number	c Delinquent Tax, Increase (Decrease) in Tax	d Increase (Decrease) in Allowed Credits	e Penalty		f Total Adjustment and Penalties (c+d+e)	g Page number of Report
				Code Section	Amount		
2016	941	No Change	-				
2016	945	16,691.64			-	16,691.64	
<b>Total</b>		<b>16,691.64</b>				<b>16,691.64</b>	

Other Information

The examination of your employment tax returns as reflected on this Agreement did not include an examination for employment tax purposes of whether any individuals should be treated as your employees for purposes of Section 530 of the Revenue Act of 1978 as amended by Section 1122 of the Small Business Job Protection Act of 1996.

This does not constitute an income tax examination.

Examining Name Cheryl Borella <i>Cheryl Borella</i>	Area Pacific Group
Form 4666 (Rev. 10-2017)     Catalog Number 41874S	1000676902     publish.no.irs.gov     Department of the Treasury - Internal Revenue Service

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Form <b>4668-B</b> (Rev. March 2011)	Department of the Treasury - Internal Revenue Service <b>Report of Examination of Withheld Federal Income Tax</b> For withholding reported on Forms 1099 and W-2G	Return Form number <b>945</b>
Name and Address of Employer  <b>Monterey Peninsula Water Management District 5 Harris Court, Building G Monterey CA 93940</b>	Employer Identification number <b>94-2535586</b>	Calendar year <b>2016</b>
	Total tax plus penalty, or (decrease) in tax <b>\$ 16,691.64</b>	
Examination discussed with (Name and title) <b>Suresh Prasad, CFO</b>	<input type="checkbox"/> Agreed (Subject to acceptance by the Director) <input checked="" type="checkbox"/> Unagreed	

**Summary of Changes to Federal Income Tax Withholding**

**Adjustment to taxes withheld under IRC 3402(o) through 3402(r) and 3405**

(a) Description of Payment Subject to Tax	(b) Code Section	(c) Tax Rate	(d) Payments	(e) Tax
1.				
2.				
3.				
4.				
5.				
6. Non-wage taxes withheld but not reported				
7. Other adjustment to non-wage withholding				
8. Total adjustment to non-wage withholding (Total of Lines 1(e) through 7(e))			<b>IRS Ref. 003</b>	

**Adjustment to backup withholding**

(a) Description	(c) Tax Rate	(d) Payments	(e) Tax
9. Payments subject to backup withholding under 3406	0.28	59,613.00	16,691.64
10. Payments subject to backup withholding under 3406			
11. Taxes withheld under IRC 3406 but not reported			
12. Other adjustment to backup withholding			
13. Total adjustment to backup withholding (Total of Lines 9(e) through 12(e))		<b>IRS Ref. 008</b>	16,691.64

**Summary of adjustments to tax and penalties**

14. Delinquent tax or increase (decrease) in tax (Line 8(e) plus Line 13(e))		16,691.64
15. Penalty code section 6651(a)(1)		
16. Penalty code section 6651(a)(2)		
17. Penalty code section 6656		
18. Penalty code section		
19. Total penalties (sum of Lines 15 through 18)		
20. Maximum tax available for abatement under IRC 3402(d)		16,691.64

Examiner's signature <i>Cheryl Borella</i> Cheryl Borella	Group Number 7254	Area Pacific Group	Date March 8, 2019
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**EXHIBIT 7-A**

**Agreement to Assessment and Collection of  
Additional Tax and Acceptance of Overassessment**

**(Employment Tax Adjustments Not Subject to IRC 7436;  
Worker Classification or Section 530 Issues Not Addressed in this Exam)**

Date received by Internal Revenue Service

Taxpayer(s) name <b>Monterey Peninsula Water Management District</b>			D/B/A		SSN/EIN <b>94-2535586</b>
Address of taxpayer(s) (number, street) <b>5 Harris Court, Building G</b>			City/Town <b>Monterey</b>	State <b>CA</b>	ZIP code <b>93940</b>

**Adjustment to Tax, Credits and Penalties**

Tax Period Ended	Return Form number	Kind of Tax and Internal Revenue Code Section	Amount of Tax	Credit Increase (Decrease)	Penalty
03/31/2016 - 12/31/2016	941 & 945	IRC 3101, 3111, 3402 & 3406	\$ 16,691.64	\$ -	\$ -
<b>Total</b>			16,691.64	0.00	0.00

I consent to the immediate assessment (*Increase in tax and penalties and/or decrease in credits*) and the collection of any such amounts. In addition, I accept any overassessment (*decrease in tax and penalties and/or increase in credits*) shown above. I also agree to any interest as provided by law.

Sign Here	Date:
Sign Here	Date:
Sign By _____	Title: _____
Sign Here	Date:

**Note:**  
If you consent to the assessment of the amounts shown in this agreement, your signature will expedite our adjustment to your account. Your consent will not prevent you from filing a claim for refund (after you have paid the tax) if you later believe you are entitled to a refund. It will not prevent us from later determining, if necessary, that you owe additional tax; nor extend the time provided by law for either action.

The examination of your employment tax returns as reflected on this agreement did not include an examination for employment tax purposes of whether any individuals should be treated as employees.

**Who Must Sign**

If you are making this agreement for a partnership, all partners must sign. However, one partner may sign with appropriate evidence of authorization to act for the partnership.

For a corporation, enter the name of the corporation followed by the signature and title of the officer(s) authorized to sign.

For an agent or attorney acting under a power of attorney, a power of attorney form must be sent with this form if not previously filed with us.

Memo: Abatement amount under IRC 3402(d) and/or IRC 3102(f)(3) - See explanation on Form 4666

Tax Period Ended	Return Form Number	IRC Code	Credit for Abatement	Tax Period Ended	Return Form Number	IRC Code	Credit for Abatement

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Form <b>886-A</b> (Rev. January 1994)	<b>EXPLANATION OF ITEMS</b>	Schedule number or exhibit
Name of taxpayer	Tax Identification Number	Year/Period ended
Monterey Peninsula Water Management District	94-2535586	201612

**Issue:**

Whether payments to vendors are subject to Backup Withholding tax when the taxpayer did not have the required Taxpayer Identification Number (TIN) on file in the year of payment.

**Facts:**

Monterey Peninsula Water Management District ("The District") was issued a CP2100 Notice for tax years 2015, 2016 and 2017. The 2016 Notice listed 60 vendors with unassigned TINs and 1 vendor with a mismatched TIN. The District filed a total of 112 Forms 1099 in 2016 and the error rate was 54%. The error rate decreased to 34% in 2017 where there were only 17 unassigned TINs and 7 mismatched TINs out of the 70 total Forms 1099 filed.

The 60 vendors with unassigned TINs in 2016 represent customers who received water rebates. The District was unable to secure the customers' TINs prior to the issuance of the Forms 1099, and therefore, filed the Forms 1099 with the TIN "999-99-9999." The District solicits TINs from all customers who apply for rebates that are \$600 or more at the time the rebate application is submitted. The District also solicits TINs annually prior to filing Forms 1099 for any customer that has not provided one during the tax year.

The one vendor with a mismatched TIN appeared on the CP2100 Notice in both the 2015 and 2016 tax years. TP made the required initial and annual solicitation for the vendor TIN and believed that the TIN and name secured was accurate for the 2016 filing.

No Form 945 was filed by the taxpayer for 2016 or any other tax year.

**Law and Analysis:**

**IRC (Internal Revenue Code) §3406(a)(1)** requires that, in the case of any reportable payment, the payer shall deduct and withhold from such payment a tax equal to a product of the fourth lowest rate of tax applicable under IRC §1(c), if:

- (A) the payee fails to furnish his TIN to the payor in the manner required,
- (B) the Secretary notifies the payor that the TIN furnished by the payee is incorrect

**IRC §3406(b) Reportable payment.** The term "reportable payment" means—

- (A) any reportable interest or dividend payment and
- (B) any other reportable payment.

**IRC §3406(b)(3) Other reportable payment.** The term "other reportable payment" means any payment of a kind, and to a payee, required to be shown on a return required under—

- (A) section 6041 (relating to certain information at source),



**EXHIBIT 7-A**

Form <b>886-A</b> (Rev. January 1994)	<b>EXPLANATION OF ITEMS</b>	Schedule number or exhibit
Name of taxpayer	Tax Identification Number	Year/Period ended
Monterey Peninsula Water Management District	94-2535586	201612

(B) section 6041A(a) (relating to payments of remuneration for services),

**IRC §6041A(a)** payments for remuneration of services such as nonemployee compensation.

**IRC 3406(e)** addresses the period(s) for which withholding is required in the following situations which trigger backup withholding:

- 1) The payee fails to furnish his taxpayer identification number (TIN) to the payer in the manner required.
- 2) The service notifies the payer that the TIN furnished by the payee is incorrect.

**Treas. Reg. 31.3406(a)(4)(a)(1)** states if backup withholding is required, the payor must withhold at the time it makes the payment to the payee that is subject to backup withholding.

**Treas. Reg. §31.3406(d)-5(b)(1)** defines an incorrect name/TIN combination as a combination of a name and taxpayer identification number provided on an information return with respect to which the IRS determines that the TIN provided is not assigned to the taxpayer's name. Whenever the IRS notifies the payer that the TIN furnished by the payee is incorrect, the payer must impose backup withholding on all reportable payments made to the payee: After the close of the 30<sup>th</sup> business day after the date the payer received the notice, and Before the payer receives another TIN, which is certified as correct. See *Treas. Regs. §§ 31.3406(d)-5(e)*.

**IRC §3406(h)(2)** states that if a payee furnishes two incorrect TINs in any 3-year period, the payer shall, after receiving notice of the second incorrect TIN, treat the payee as not having furnished a TIN until the day on which the payer receives notification from the IRS that a correct TIN has been furnished.

**IRC 3406(h)(10)** states that payments which are subject to withholding under this section shall be treated as if they were wages paid by an employer to an employee (and amounts deducted and withheld under this section shall be treated as deducted and withheld under 3402).

**IRC §3402(d)** states---Backup withholding imposed by IRC §3406 is subject to the abatement procedures of IRC §3402(d). If the employer, in violation of the provisions of this chapter, fails to deduct and withhold the tax under this chapter, and thereafter the tax against which such tax may be credited is paid, the tax so required to be deducted and withheld shall not be collected from the employer, but this subsection shall in no case relieve the employer from liability for any penalties or additions to the tax otherwise applicable in respect for such failure to deduct and withhold. Form 4669 can be used for this relief.

**EXHIBIT 7-A**

Form <b>886-A</b> (Rev. January 1994)	<b>EXPLANATION OF ITEMS</b>	Schedule number or exhibit
Name of taxpayer	Tax Identification Number	Year/Period ended
Monterey Peninsula Water Management District	94-2535586	201612

The Backup Withholding Tax rate is 28% through December 31, 2017, and 24% effective for the 2018 tax year.

Guidance to comply with IRC 3406 requirements are in Publication 1281 "Backup Withholding for Missing and Incorrect Name/TIN(S)." Page 17 provides a flowchart of actions required to address missing TINs.

A TIN is considered to be missing if it is not provided or if it is obviously incorrect. For accounts with missing TIN(s), Backup Withholding should start immediately and continue until a valid TIN is received. If Backup Withholding was not started, generally you must:

1. Begin Backup Withholding on any reportable payment and continue until you receive a TIN.
2. Do not send a first or second "B" Notice in response to the CP2100 or CP2100A Notice. However, in order to avoid a penalty for filing an information return that omitted the payee's TIN, you must make a first annual solicitation for the TIN (generally by December 31 of the year in which the account is opened) and if a TIN is still not received make a second annual solicitation by December 31 of the following year. No annual solicitations are required in the year in which no reported payments are made.
3. Report amounts withheld on Form 945, Annual Return of Withheld Federal Income Tax, and make required deposits.

**Taxpayer Position:**

The taxpayer acted responsibly by making the initial solicitations and annual solicitations of TINs from the customers and vendors.

**Conclusion:**

The taxpayer issued 60 Forms 1099 with an unassigned TIN in 2016. Because there was no TIN on file at the time Forms 1099 were filed, these payments are subject to Backup Withholding tax.

The taxpayer issued 1 Form 1099 which appeared on the Notice for multiple years. Once the taxpayer has been notified by IRS Notice CP2100 for 2 out of 3 years, they must begin Backup Withholding. The taxpayer did not begin Backup Withholding for this vendor.

The taxpayer is entitled to a credit under IRC section 3402(d) for the correct and complete Forms 4669 secured for 11 vendors.

**EXHIBIT 7-A**

Form <b>886-A</b> (Rev. January 1994)	<b>EXPLANATION OF ITEMS</b>	Schedule number or exhibit
Name of taxpayer	Tax Identification Number	Year/Period ended
Monterey Peninsula Water Management District	94-2535586	201612

The examination was not expanded to the 2017 tax year as the taxpayer made the required initial and annual solicitations for vendor TINs, had required Forms W-9 on file or took appropriate timely actions to address the errors on the CP2100 Notice.

The taxpayer has not filed Form 945 in the past and no penalties have been asserted in relation to Form 945. The taxpayer has timely filed all required returns in the past three years and is currently compliant with all required filings. As such, the taxpayer qualifies for the First Time Abate waiver for the for failure to file Form 945 and failure to pay the backup withholding tax penalties that would apply under IRC Sections 6651(a)(1) and 6651(a)(2). These penalties are waived for the 2016 tax year.

Given the facts and circumstances of this case, it appears that the taxpayer has reasonable cause for the incorrect TINs since the taxpayer made the initial solicitation from the customers at the time the accounts were open (i.e. when they applied for the rebate) as well as the first annual solicitation before the end of the tax year. In addition, the taxpayer made the initial solicitation from the one repeat vendor as well as an annual solicitation and believed that the information provided by the vendor was correct. As such, the taxpayer satisfied the requirement to act in a responsible manner under Treas. Reg. 301.7264-1, and therefore, the failure to file and failure to correct information return penalties under IRC 6721 and 6722 will not be asserted.

**Backup Withholding Tax Due:**

Original Backup Withholding Tax	23,061.08
Less Credit for Forms 4669	<u>(6,369.44)</u>
Amount of Tax Due	<u><b>16,691.64</b></u>



# Your Appeal Rights and How To Prepare a Protest If You Don't Agree



Department of the Treasury  
Internal Revenue Service

[www.irs.ustreas.gov](http://www.irs.ustreas.gov)

Publication 5 (Rev. 01-1999)  
Catalog Number 460741

## Introduction

This Publication tells you how to appeal your tax case if you don't agree with the Internal Revenue Service (IRS) findings.

## If You Don't Agree

If you don't agree with any or all of the IRS findings given you, you may request a meeting or a telephone conference with the supervisor of the person who issued the findings. If you still don't agree, you may appeal your case to the Appeals Office of IRS.

**If you decide to do nothing** and your case involves an examination of your income, estate, gift, and certain excise taxes or penalties, you will receive a formal Notice of Deficiency. The Notice of Deficiency allows you to go to the Tax Court and tells you the procedure to follow. If you do not go to the Tax Court, we will send you a bill for the amount due.

**If you decide to do nothing** and your case involves a trust fund recovery penalty, or certain employment tax liabilities, the IRS will send you a bill for the penalty. If you do not appeal a denial of an offer in compromise or a denial of a penalty abatement, the IRS will continue collection action.

If you don't agree, we urge you to appeal your case to the Appeals Office of IRS. The Office of Appeals can settle most differences without expensive and time-consuming court trials. [Note: Appeals can not consider your reasons for not agreeing if they don't come within the scope of the tax laws (for example, if you disagree solely on moral, religious, political, constitutional, conscientious, or similar grounds.)]

The following general rules tell you how to appeal your case.

## Appeals Within the IRS

Appeals is the administrative appeals office for the IRS. You may appeal most IRS decisions with your local Appeals Office. The Appeals Office is separate from - and independent of - the IRS Office taking the action you disagree with. The Appeals Office is the only level of administrative appeal within the IRS.

Conferences with Appeals Office personnel are held in an informal manner by correspondence, by telephone or at a personal conference. There is no need for you to have representation for an Appeals conference, but if you choose to have a representative, see the requirements under **Representation**.

If you want an Appeals conference, follow the instructions in our letter to you. Your request will be sent to the Appeals Office to arrange a conference at a convenient time and place. You or your representative should prepare to discuss all issues you don't agree with at the conference. Most differences are settled at this level.

**In most instances, you may be eligible to take your case to court if you don't reach an agreement at your Appeals conference, or if you don't want to appeal your case to the IRS Office of Appeals. See the later section *Appeals To The Courts*.**

## Protests

When you request an appeals conference, you may also need to file a formal written protest or a small case request with the office named in our letter to you. Also, see the special appeal request procedures in Publication 1660, Collection Appeal Rights, if you disagree with lien, levy, seizure, or denial or termination of an installment agreement.

## You need to file a written protest:

- In all employee plan and exempt organization cases without regard to the dollar amount at issue.
- In all partnership and S corporation cases without regard to the dollar amount at issue.
- In all other cases, unless you qualify for the small case request procedure, or other special appeal procedures such as requesting Appeals consideration of liens, levies, seizures, or installment agreements. See Publication 1660.

## How to prepare a protest:

When a protest is required, **send it within the time limit specified in the letter you received.** Include in your protest:

- 1) Your name and address, and a daytime telephone number,
- 2) A statement that you want to appeal the IRS findings to the Appeals Office,
- 3) A copy of the letter showing the proposed changes and findings you don't agree with (or the date and symbols from the letter),
- 4) The tax periods or years involved,
- 5) A list of the changes that you don't agree with, and why you don't agree.

- 6) The facts supporting your position on any issue that you don't agree with,
- 7) The law or authority, if any, on which you are relying,
- 8) You must sign the written protest, stating that it is true, under the penalties of perjury as follows:

**"Under the penalties of perjury, I declare that I examined the facts stated in this protest, including any accompanying documents, and, to the best of my knowledge and belief, they are true, correct, and complete."**

**If your representative prepares and signs the protest for you, he or she must substitute a declaration stating:**

- 1) That he or she submitted the protest and accompanying documents and
- 2) Whether he or she knows personally that the facts stated in the protest and accompanying documents are true and correct.

We urge you to provide as much information as you can, as this will help us speed up your appeal. This will save you both time and money.

## Small Case Request:

If the total amount for any tax period is not more than \$25,000, you may make a small case request instead of filing a formal written protest. In computing the total amount, include a proposed increase or decrease in tax (including penalties), or claimed refund. For an offer in compromise, in calculating the total amount, include total unpaid tax, penalty and interest due. For a small case request, follow the instructions in our letter to you by: sending a letter requesting Appeals consideration, indicating the changes you don't agree with, and the reasons why you don't agree.

## Representation

You may represent yourself at your appeals conference, or you may have an attorney, certified public accountant, or an individual enrolled to practice before the IRS represent you. Your representative must be qualified to practice before the IRS. If you want your representative to appear without you, you must provide a properly completed power of attorney to the IRS before the representative can receive or inspect confidential information. Form 2848, Power of Attorney and Declaration of Representative, or any other properly written power of attorney or authorization may be used for this