



## Tax Reduction Letter

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### Internal Revenue Manual Section 13.1.20.2 (02-01-2011)

#### Determining When to Issue a Taxpayer Assistance Order

1. Pursuant to Delegation Order 13-1 (formerly DO-232) and **IRM 1.11.4.2(2), Types of Delegation of Authority**, the authority to issue a TAO is delegated to Area Directors (ADs), Local Taxpayer Advocates (LTAs), the Executive Director, Case Advocacy (EDCA), and the Deputy National Taxpayer Advocate (DN TA). These officials have the delegated authority to issue, modify, or rescind a TAO.
2. A TAO will be considered when all of the following factors are present:
  1. the taxpayer is suffering or about to suffer a "significant hardship" if relief is not granted; and
  2. the significant hardship results from the manner in which the IRS is administering the law, and
  3. TAS does not have the authority to take the actions needed to grant relief to the taxpayer or to resolve a case issue, and
  4. the Operating Division or Function (OD/Function) does not agree with TAS on the proper resolution of specific case issues, or the IRS fails to perform the actions recommended by TAS.
3. A significant hardship includes:
  1. an immediate threat of adverse action;
  2. a delay of more than 30 days in resolving taxpayer account problems;
  3. the incurring by the taxpayer of significant costs (including fees for professional representation) if relief is not granted;
  4. irreparable injury to, or a long-term adverse impact on, the taxpayer if relief is not granted.;
  5. a serious privation caused or about to be caused to the taxpayer as a result of the particular manner in which the revenue laws are being administered by the IRS per Treas. Reg. § 301.7811-1(a)(4)(ii).

#### Note:

The regulation states that serious privation is more than mere economic or personal inconvenience.

4. In cases where any IRS employee is not following applicable published administrative guidance (including the IRM), TAS must analyze the factors taken into account in determining whether to issue a TAO in the manner most favorable to the taxpayer. See IRC 7811(a)(3).
5. When the Case Advocate (CA) encounters a situation where an agreement with the OD/Function cannot be reached on the action needed to resolve a case, the CA must immediately elevate the case to the manager. The CA must ensure the TAMIS history and the related case file are well documented for review. The CA will prepare a briefing document that includes the following:
  1. The subject of the dispute;
  2. A chronological time line of actions taken by the IRS and TAS;
  3. The name, position and the phone number of the OD/Function employee who disagrees or refuses to take the requested action;
  4. The OD/Function basis for denying the requested action (e.g., under what provision of the IRC, IRM, procedural memoranda, etc.);
  5. A specific explanation of the action TAS is requesting and the rationale behind the request.
6. Consider issuing a TAO on a case that cannot be resolved after a reasonable process of consultation with the OD/Function. Congress granted the NTA the authority to issue a TAO to ensure that TAS can effectively resolve problems and protect

taxpayer rights when the taxpayer has a significant hardship, even when the IRS disagrees or has other internal priorities. Thus, the TAO is a statutory tool that should be used at the right time in a well-developed case.

**Note:**

Although it is not necessary to issue a **Form 12412**, Operation Assistance Request (OAR), before issuing a **Form 9102, Taxpayer Assistance Order (TAO)**, in most cases the CA will issue an OAR prior to a TAO, if time permits. The only requirement before issuing a TAO is that a conversation takes place between TAS and the Responsible Official in the OD/Function with respect to the requested action. If no agreement can be reached, consider the issuance of a TAO. See **IRM 13.1.19.6, OARS - Operating Division or Functional Unit Disagrees - Action Not Taken**, for additional information.