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IRS interim guidance on designation of cases for litigation

The IRS today released a memorandum that provides interim guidance for the IRS field personnel on the criteria to be applied and the process to be used when considering requests for designation of issues (cases) for litigation made to the Office of Chief Counsel.

The [memorandum](#) [PDF 186 KB] was signed by the IRS Deputy Commissioner for Services and Enforcement and directed to the Commissioners of the IRS Large Business and International (LB&I), Small Business/Self-Employed (SB/SE), and Tax Exempt and Government Entities (TE/GE) Divisions, and the IRS Chief Counsel.

In addition to the interim guidance about the criteria to be applied in considering a request for designation for litigation, the memorandum also provides interim guidance on the requirements of a provision of the *Taxpayer First Act of 2019* with respect to the limitation on designation of cases as not eligible for referral to the IRS Independent Office of Appeals.

The memorandum notes that historically cases designated for litigation have been infrequent, and states that the IRS should continue to use designation infrequently, subject to careful consideration at all levels of the process.

Chief Counsel Directives Manual 33.3.6.2.1 sets out the existing procedures for designating issues for litigation. Today's memorandum states that these procedures will be revised, and that complementary procedures will be added to the Internal Revenue Manual.

Read a related IRS release—[IR-2020-188](#).

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