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July 7, 1998

Reconciliation of Disagreements

Subject: Between Offices within Chief Counsel **Cancellation Date:** January 3, 1999

This Notice is intended to clarify the procedures requiring the reconciliation of disagreements between different offices regarding legal issues.

Offices within the National Office provide advice and assistance to other offices in the Field and National Office concerning matters under the jurisdiction of the office providing the advice. The advice and assistance may involve substantive matters, such as the interpretation of the Code and regulations or positions to be advanced in litigation, or procedural or significant tactical matters, such as advice on the content of pleadings or on the need to file amended pleadings, on discovery practice, or on the use of expert witnesses. The advice and assistance may be formal or informal, oral or in writing.

An office that receives advice or assistance **must** follow the advice or implement the assistance unless the receiving office requests reconsideration of the advice or assistance **and** the advice or assistance is changed through the reconciliation process discussed below. When there is doubt about whether the advice is directive rather suggestive, the receiving office should ask for clarification rather than proceed on what might be an erroneous presumption that the advice was merely a suggestion.

Because anything signed by or approved in the name of the Chief Counsel should represent the position of the entire office and not merely the position of a particular individual, division, or office, reconciliation of differing views is an important means of ensuring that the views of all Chief Counsel attorneys are adequately considered and that the position of the office as a whole is advanced. The reconciliation process helps identify possible errors or omissions in proposed advice and assistance. The reconciliation process also improves the ability of the Office of Chief Counsel to avoid inconsistent treatment of similarly situated taxpayers and to fulfill its mission to provide the correct legal interpretation of the law.

Absent ordinary circumstances, reconciliation should begin by the receiving office requesting reconsideration and providing the reasons for its disagreement to the office that provided the advice or assistance. If that office adheres to its views after

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reconsideration, the receiving office must follow the advice or assistance or elevate the request for reconsideration to the next higher level.

A request for reconsideration of branch level advice should be elevated to the Assistant Chief Counsel of the office within which the branch is located; a request for reconsideration of Assistant Chief Counsel office advice should be elevated to the Associate Chief Counsel within which the division is located. A request from a Field Office for reconsideration by an Assistant Chief Counsel should be made by the appropriate Assistant Regional Counsel. A request for reconsideration to an Associate Chief Counsel should be made by the Regional Counsel or Deputy Regional Counsel. If the Regional Counsel and Associate Chief Counsel levels are unable to reconcile their views, the matter should be elevated to the Chief Counsel or the Deputy Chief Counsel by the Regional Counsel.

A request for reconsideration at a higher level within the National Office should be made by an Assistant Chief Counsel to another Assistant Chief Counsel or by an Associate Chief Counsel to another Associate Chief Counsel. If the Associates are unable to reconcile their views, the matter should be elevated to the Chief Counsel or the Deputy Chief Counsel.

These procedures will be included in the next series of revisions to the CCDM.

/s/ Marlene Gross
for STUART L. BROWN
Chief Counsel