

Notice

CC-2017-001

November 2, 2016

Subject: Discontinuance of Litigation Guideline
Memorandum Program

Cancel Date: Until further notice

PURPOSE

This Notice announces the discontinuance of the Litigation Guideline Memorandum program in the Office of Chief Counsel and the obsolescence of existing Litigation Guideline Memorandums.

DISCUSSION

Litigation Guideline Memorandums (LGMs) were a form of legal advice prepared by attorneys in the National Office of the Office of Chief Counsel through 1999. Their purpose and scope was defined in a 1988 Chief Counsel Notice as follows:

Litigation Guideline Memorandums provide information and instruction relating to litigating procedures and methods, and standards and criteria on issues and matters of significant interest to litigating attorneys in the Office of Chief Counsel.

Chief Counsel Notice (32)210-10, Litigation Guideline Memorandums (April 18, 1988). As originally envisioned, LGMs were not to be distributed outside of the Chief Counsel's Office and were considered exempt from production under the Freedom of Information Act or discovery as privileged law enforcement material or attorney work product.

Subsequently, Congress enacted section 3509 of the Internal Revenue Service Restructuring and Reform Act of 1998 ("RRA'98"), Pub. L. 105-206, 112 Stat. 685, 772, which was codified as new I.R.C. § 6110(i). Section 6110(i) as revised established a comprehensive scheme for the public disclosure of "Chief Counsel advice," defined as written advice or instruction, under whatever name or designation, prepared by any National Office component of the Office of Chief Counsel, which is issued to field personnel of the Service or the Chief Counsel's Office, and which conveys any legal interpretation of a revenue provision, any IRS or Chief Counsel position or policy concerning a revenue provision, or any legal interpretation of Federal, state, or foreign law relating to the assessment or collection of any liability under a revenue provision. LGMs fall within the definition of Chief Counsel advice under section 6110(i). The provision applies to Chief Counsel advice issued after December 31, 1985. RRA'98 § 3509(d)(2). In compliance with new section 6110(i), the Service announced that it would make post-1985 LGMs available for public inspection. Announcement 99-81, 1999-2 C.B. 244 (August 9, 1999).

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	X All Personnel	X Electronic Reading Room
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The Office of Chief Counsel issued its last LGM in 1999. The Office has since discontinued preparing Litigation Guideline Memorandums and instead issues legal advice and litigation guidance through a number of other written work products, including Chief Counsel Notices, formal and informal Chief Counsel advice memorandums, generic legal advice memorandums, program manager technical advice, and updates to the Chief Counsel Directives Manual (CCDM). Because LGMs no longer serve their original purpose of providing confidential legal advice and litigation guidance to Chief Counsel attorneys, and have been superseded by other Chief Counsel work products, they will no longer be prepared and issued by the Office of Chief Counsel. To the extent that existing LGMs have not been formally obsoleted or withdrawn, they may now be considered obsolete.

While LGMs are no longer directly applicable to cases handled by Chief Counsel attorneys, they can serve as useful research tools and historical records of positions previously taken by the Office of Chief Counsel on issues in litigation. Redacted versions of LGMs remain publicly available on commercial on-line services such as Lexis and WestLaw. Attorneys seeking current guidance on issues that were previously the subject of an LGM should determine whether updated guidance has been provided in the form of a Chief Counsel Notice or other Chief Counsel work products, or request formal or informal Chief Counsel advice from the Office of Associate Chief Counsel with subject matter jurisdiction over the issues.

Any questions concerning the foregoing may be directed to Special Counsel James G. Hartford at (202) 317-5210.

/s/

Drita Tonuzi
Associate Chief Counsel
(Procedure & Administration)