FREQUENTLY ASKED QUESTIONS

1. The concept of limited scope examinations has been around for a long time, what is the difference between LIFE and what was done previously?

   LIFE requires a commitment by both the Service and the taxpayer that is reduced to writing in the Memorandum of Understanding (MOU). This MOU governs key aspects of the LIFE process. For the taxpayer, this includes: providing the computations for agreed rollover and recurring issues, filing claims by an agreed upon date and only when above the established materiality threshold and with supporting documentation. The taxpayer must also adhere to agreed upon response times for Information Document Requests (IDRs) and discuss issues as they arise.

   For the Service, the LIFE MOU will require that materiality thresholds be established below which issues will not be raised; greater involvement and interaction with the taxpayer in the planning process, timely response to information provided by the taxpayer and a commitment to use appropriate issue resolution processes throughout the examination.

2. Can a LIFE examination have only five issues and still take two years to complete? If so, this does not seem to fit the accelerated timeframe inherent in the LIFE process.

   Typically, the answer would be no. However, there may be LIFE examinations in which the complexity of the issues and/or the need to obtain Chief Counsel guidance will necessitate two years to complete. We think this would be the exception, not the rule--especially considering all of the Issue Resolution tools and the new issue guidance processes now available.

3. Is a LIFE examination more concerned with the number of issues examined or the time to complete the case?

   The process is concerned with both. By using risk analysis and an elevated materiality threshold, LIFE should help the agent to focus on fewer issues than would be examined in a traditional, broad-based examination. The focus on fewer issues and the increased cooperation between the Service and the taxpayer should work to reduce both the resources expended and the time span of the examination(s).

4. Can some of the LIFE techniques be used on an examination even if a LIFE MOU is not signed?

   If the MOU is not signed, some of the features may be utilized but the scope limitation is not required by the Service. While most of the features in the LIFE process are good business practices, in order to be a limited scope exam under LIFE, all features must be followed and the MOU must be signed. Most of the features in the LIFE process come from “best practices” already being utilized by LMSB agents and taxpayers.

5. Does LIFE apply to specialist issues?

   Yes, the LIFE process applies equally to all issues. This includes **all** specialists.

6. Will there be a standard MOU for the LIFE examination?

   Yes. This MOU template is available on the irs.gov website. This template will be used on all LIFE examinations. The MOU addresses the key aspects of the examination and is one of the cornerstones of the LIFE process. If you decline to execute the written MOU, benefits of the process will not be extended.

7. What happens if I am unable to adhere to the terms and agreements in the MOU?

   There will be occasions where items within the MOU cannot be adhered to. However, every attempt should be made to comply. If this situation arises, you should speak to the agent/team, if possible, before this occasion arises. If the MOU is repeatedly breached or a single egregious act occurs, this would be grounds for termination of the LIFE process and a return to the traditional, broad-based examination. This decision will be up to the team.

8. What happens if the Service fails to meet the commitments made in the MOU?

   Again, there will be occasions where items within the MOU cannot be adhered to; however, every attempt should be made to comply. The team should try to advise the taxpayer if a failure may occur. If the taxpayer feels that the team is not meeting its commitments, the team manager should become involved. If the team manager is unable to resolve the problem, you may terminate the LIFE examination. If the Service increases the scope of the examination to include a material item as provided for in the MOU, this is not considered to be a breach of the MOU.

9. If, during a LIFE examination, a taxpayer identifies errors/omissions that are below the materiality threshold, will these be ignored? Or, if an agent/team finds a black or white issue that falls below the materiality threshold, will it be raised?

   The LIFE MOU specifies that any computational, arithmetical errors and/or omissions identified may be made even if they fall below the thresholds. These should generally be of a mathematical or accounting nature, and not be technical issues that are resource intensive. The MOU also states that black and white issues that require little or no time to develop and when both parties agree that a correction is appropriate, the issue may be included in the examination.

   While we acknowledge that these situations will present themselves, both parties should make every effort to adhere to the scope limitations initially established.

10. The team has just supplied me the materiality thresholds that will be used in the examination and I have serious concerns about them. Do I have any recourse?

    The examination team should discuss the materiality thresholds that have been established and you should feel free to provide feedback. However, it is the exam team's decision on the final thresholds that are established. You can also discuss your concerns with the team manager. If you are still uncomfortable with the thresholds, you can decline to participate in the LIFE process.

11. Can materiality thresholds from the last cycle be used for the current cycle? In the alternative, could the thresholds for a similar (size and industry) taxpayer be used for my examination?

    Each taxpayer is uniquely different. Each examination cycle and/or year stands on its own, and comparisons between taxpayers or between years for the same taxpayer should not be made. Thresholds should be established based on the unique characteristics of the taxpayer and the return under examination. Although, in most cases, thresholds will cover all years under examination at that time, there may be unique instances that would make it appropriate for thresholds to be set for each year, independently of each other. This might be the case if a taxpayer's size were to increase materially due to a large acquisition in one year.

12. Is LMSB attempting to make blanket thresholds for all taxpayer?

    Absolutely not! No two taxpayers are identical. The differences in location, size, business practices, industries, etc., make it impossible and impractical to set one standard.

13. If the Service intends to use the LIFE process for my examination, shouldn't this reduce the initial risk analysis and planning process?

    First, there is no way to determine if the LIFE process is appropriate without a comprehensive risk analysis being completed. A full risk analysis is needed to properly identify the material items, prioritize the potential issues and arrive at a final issue selection. Depending on the outcome of the risk analysis and planning, the use of LIFE may or may not be appropriate. Second, the full range of issues identified in the comprehensive risk analysis as well as the revised/reduced scope of the LIFE process is shared with the taxpayer. This illustrates the benefits of LIFE and also the potential scope should a LIFE examination be terminated.

14. What is an issue?

    The agent or team determines what an issue will be. It can be as simple as a single transaction or as broad as an account or an event. This definition is up to the team.

The team should ensure that the definition is understood within their team and with the taxpayer.

15. If a taxpayer is not offered LIFE, is the team required to inform them why?

    LIFE is not a right but a privilege. The agent/team must consider the use of LIFE in all examinations. If a decision is reached that LIFE should not be offered, there is no mandate to raise the discussion with the taxpayer. However, if a taxpayer asks, the examiner should share the reasons for the decision.

16. I am the controller of a corporation that has been approached about participation in the LIFE process. We are small and do not have the staff to react quickly to document requests. Because of this I am considering rejecting the LIFE offer. Will this create some kind of stigma for me for current and future examinations?

    No, this should not have any negative connotations for the current or future examinations. We realize that this process may not be for everyone. Resource decisions may cause a taxpayer to decline a LIFE examination; this does not mean that a taxpayer is not cooperative.

17. My examination is being handled under LIFE and the date to file claims passed some time ago. A court decision has been published that will greatly reduce our tax liability. I have the documentation to fully support the claim amount. If I file this claim will it terminate the LIFE examination?

    If the claim amount is below the materiality threshold established for this examination, filing the claim will result in termination.

    If the claim amount is above the materiality threshold - you should immediately discuss this situation with the team and/or team manager. The decision to terminate the LIFE process will depend upon a number of factors including how quickly you can submit the claim (with supporting documentation) and the amount of additional work required by the examination team.

    If this is a recent court decision and you have determined an amount with certainty and documentation, the team and the team manager may consider this claim without terminating the LIFE process.

18. A LIFE examination has been in process for some time and the date to file claims is long past. The taxpayer presents a claim that they have been preparing since before the opening conference. The claim amount is above the materiality threshold. There was no prior discussion with the examination team that this claim was under development. Should the LIFE examination be terminated?

    Yes. Not only was the MOU violated by the submission of a claim past the due date, but the taxpayer has failed to communicate with the examination team.

19. The MOU states that the taxpayer is responsible for providing the computation and support for all agreed rollover and recurring issues. Please define “rollover” and “recurring”.

We will try to demonstrate this by example:

FACTS: A consolidated return was examined and there was one large subsidiary in which the taxpayer expensed the purchase of all office furniture. The examination team adjusted this item and the taxpayer agreed. The scope of the examination was not expanded to include this issue for the other subsidiaries.

Rollover Issue:
Since the office furniture purchases were capitalized during the prior examination, the taxpayer is entitled to additional depreciation in subsequent years (new cycle under examination). This would be the rollover adjustment.

Recurring Issue:
Assuming that the taxpayer has not corrected their capitalization policy, the recurring issue would be the proper capitalization of office furniture purchases in **all** subsequent tax years for **all** subsidiaries. The taxpayer should identify the assets that should be capitalized and provide the computation for the depreciation for all years that have been filed.

Since these are agreed issues (rollover and recurring) in the prior cycle, the taxpayer must supply the computations, regardless of the materiality thresholds that have been established. This treatment is consistent with what is likely to have happened in a subsequent examination if the LIFE process had not been utilized.