

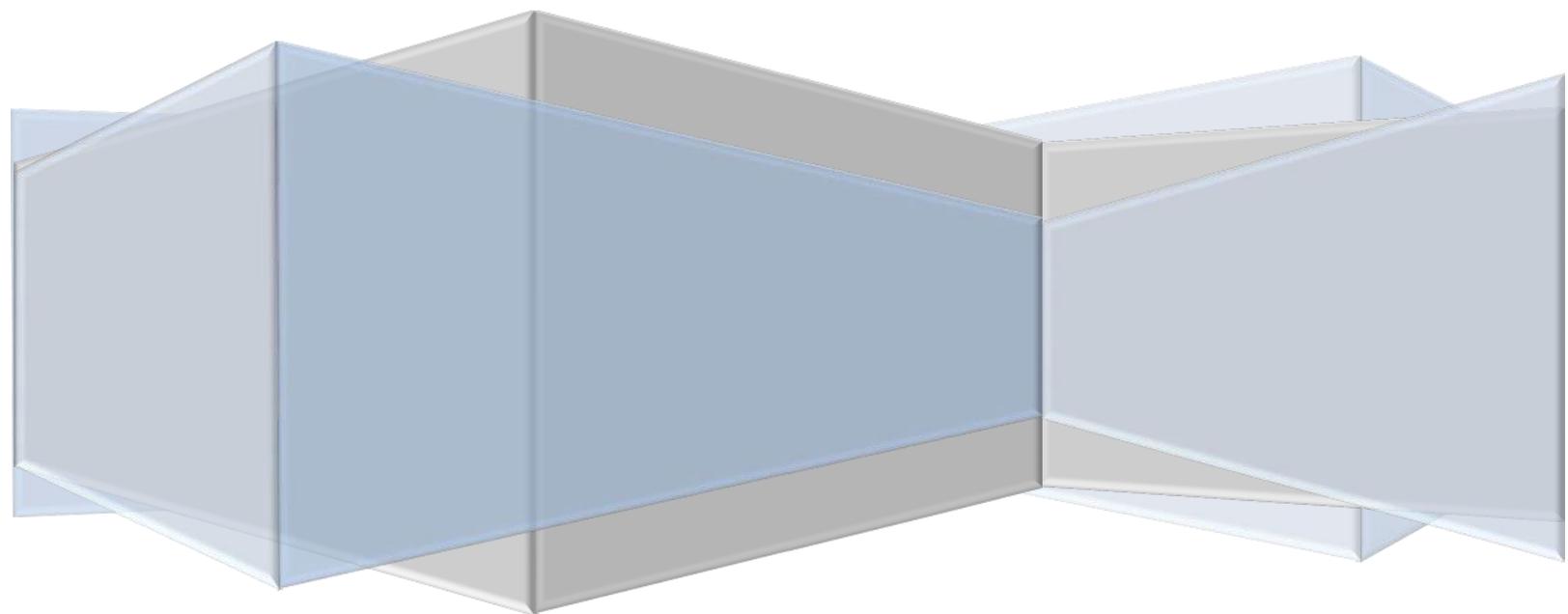
**Internal Revenue Service**

# **Virtual Settlement Days Best Practices Guide**

**Office of Chief Counsel**

**Department of the Treasury**

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This document provides guidance on Virtual Settlement Days, a Remote Model approach to Settlement Days. This document incorporates by reference the Settlement Days Best Practices Guide. Users should follow the procedures in the Settlement Days Best Practices Guide except to the extent that the alternate guidance is provided below.

## **I. What are Virtual Settlement Days?**

Virtual Settlement Days are Settlement Days where employees of the Office of Chief Counsel (Counsel) use electronic or telephonic means to meet petitioners and Low Income Taxpayer Clinic (LITC) representatives who are physically remote. The petitioners and representatives may or may not be in the same location.

The models below describe the method of communication during the Virtual Settlement Days session. They do not preclude using other methods to transmit documents and information (e.g., mail) prior to or after the session. All of these models depend on cooperation with LITCs and their staffs.

### **A. Virtual Settlement Days Models**

#### **WebEx Model**

The WebEx model uses Cisco WebEx Meeting Server (CWMS) as to serve as an audio-visual link among participants. The participants may all be in separate locations or some may be located together. Contemporary or near-contemporary email and Enterprise Electronic Fax (EEFax) communication provide a means to transmit and receive documents. Each WebEx meeting will require an employee with host privileges, preferably the Chief Counsel employee assigned to the case.

#### **Virtual Service Delivery Model**

The Virtual Service Delivery (VSD) model employs VSD sites at a government building or LITC.

#### **Telephonic Model**

The telephonic model involves telephone calls supplemented by contemporary or near-contemporary email and EEFax communications to transmit and receive documents. In this model, WebEx can be used as a dial-in audio bridge even if it is not used to exchange visual information.

## **B. What Are the Advantages and Disadvantages of Virtual Settlement Days?**

### Advantages Compared with In-Person Settlement Days

- Settlement Days events can be scheduled with greater flexibility over the date and location.
- Fewer resources required to conduct Settlement Days sessions make it possible to hold more frequent sessions.
- Lower barriers to entry make petitioners, LITCs, and Pro Bono counsel more likely to participate.

### Disadvantages Compared with In-Person Settlement Days

- Limited ability to exchange documents during session.
- Lower barriers to entry mean less commitment for petitioners to fully participate.
- Requirement for functioning technology and internet access may negatively impact economically-disadvantaged or elderly petitioners.
- Ease of distraction at a participant's location (e.g., pets, television).

## **II. Technology for Virtual Settlement Days**

WebEx: Cisco WebEx Meeting Server (CWMS) is a tool that allows Counsel to host online meetings with participants both inside and outside of the IRS and Chief Counsel. WebEx provides users the ability to conference multiple individuals (both audio and video), share a real-time video stream of a file or application to all meeting participants. Participants receive meeting invitations via email. Each email contains a link to the meeting environment, where users can access visual information. After logging into the meeting, users can select to send and receive audio through their computer. They can also request a call to an audio device. There is also a dial-in number that does not require internet access to join the audio.

- To schedule a WebEx meeting, you must have host privileges.
- WebEx allows you to share a program open on your desktop (e.g., Adobe, Word). It is permissible for the program to show the petitioner's PII. I.R.M. 10.5.1.6.17.2 (09-25-2019).
- WebEx allows you to pass presenter privileges to another participant, allowing that participant share programs open on the participant's desktop. It is permissible for that presenter to share a program containing the taxpayer's PII with the other attendees.
- WebEx previously included functions for recording meetings and for sending files to other participants. These features have been disabled.
- The WebEx feature for sharing your entire desktop has also been disabled.

Virtual Service Delivery: Virtual Service Delivery (VSD) model is a teleconferencing technology that permits parties to conduct virtual face-to-face conferences from remote locations. IRM 8.6.1.5.5 (10-01-2016). All VSD participants must be physically present at a VSD support site. A list of VSD sites is available to Counsel. Most VSD sites are in government buildings, but some sites are in LITCs.

EEFax: Enterprise Electronic Fax (EEFax) is an email plug-in allowing you to send and receive faxes through Outlook.

### **III. Planning a Virtual Settlement Day Event**

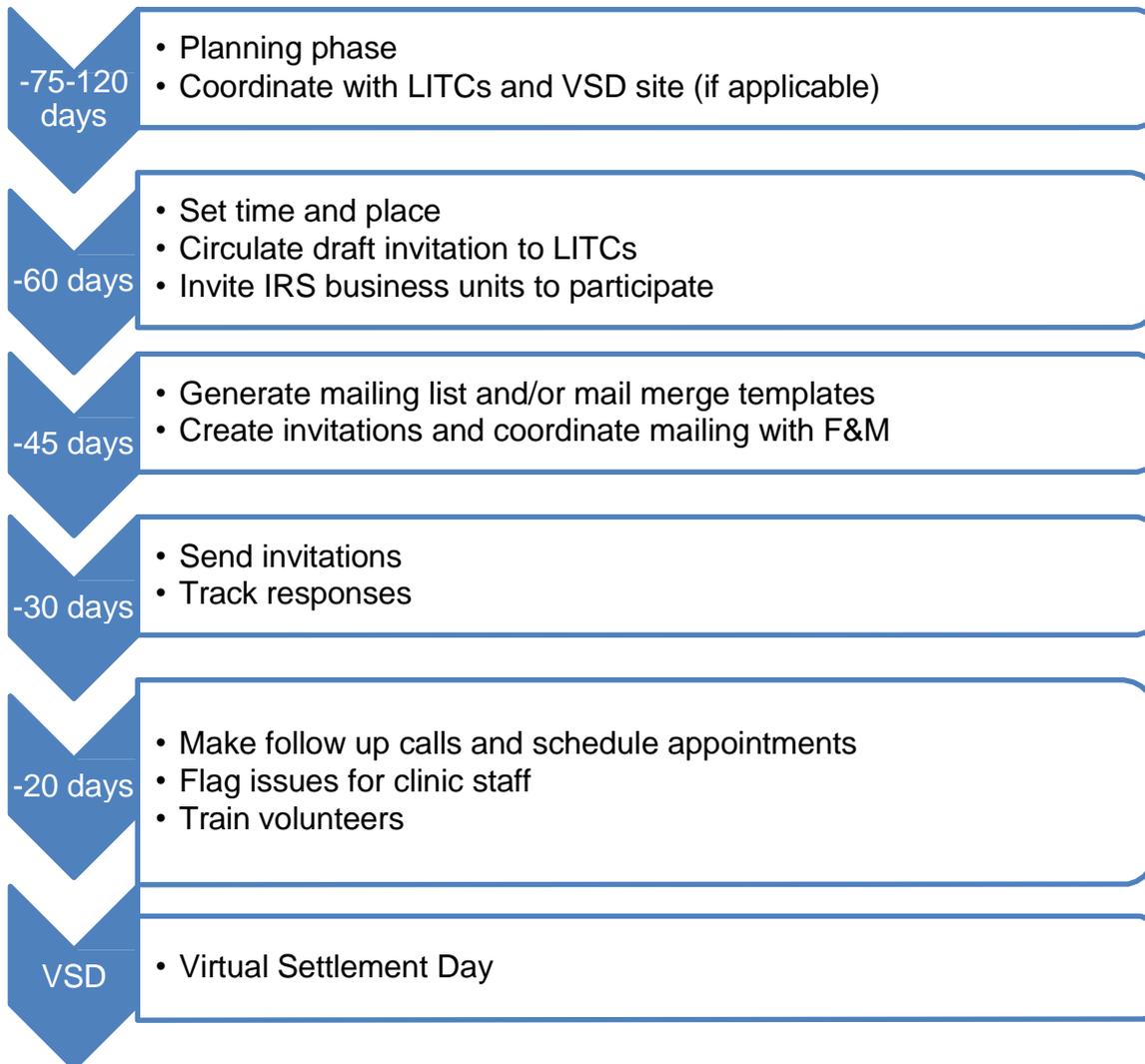
Because of the reduced resources required for a Virtual Settlement Day event, planning can be conducted on a shorter timeframe than for an in-person event. Even so, the event requires coordinating with multiple individuals and organizations. It is less likely to be successful with less than 75 days' lead time.

#### **A. Where to Hold a Virtual Settlement Day**

- Participants attending a teleconference or WebEx meeting will need to be in a location with a strong internet connection and/or cellular signal. LITC representatives and petitioners should choose a location that will minimize distractions or threats to security/confidentiality of taxpayer information. Counsel and IRS employees should work from their office or approved telework location.
- Persons attending a Virtual Service Delivery (VSD) meeting will need to travel to a VSD site at a government building or LITC.

#### **B. When to Hold a Virtual Settlement Day**

- The same scheduling considerations that apply to the date and time of in-person Settlement Days applies to Virtual Settlement Days.
- Scheduling events during nights and weekends allows for less network congestion.
- Consider a less formal approach to settlement days where Chief Counsel and IRS personnel remain "on call" until petitioners and/or the LITC say they are ready to meet.
- If using Virtual Service Delivery, remember that sites in federal buildings may have access restrictions during nights and weekends.



## C. Who to Invite- Stakeholders and Outside Partners

Who should be invited to ensure a successful Settlement Day? Counsel staff and petitioners aside, it is important to have volunteers who can assist/represent the petitioners, and volunteers to assist Chief Counsel.

### **Taxpayer Representatives**

- Low Income Taxpayer Clinics. LITCs assist low-income individuals who have a tax dispute with the IRS (please note that LITCs can initially meet with individuals who are not low income, so Counsel should not consider the income of taxpayers when sending invitations). LITCs can also provide education and outreach to individuals who speak English as a second language (ESL). Be sure invite all local LITCs so as to not favor one clinic over another. To identify the LITCs close to the place of trial, check here: <https://taxpayeradvocate.irs.gov/about/litc>
- ABA Attorneys. The ABA wants to be involved in Settlement Days. Contact the local head of the Tax Section to gauge interest. These attorneys may have access to WebEx, Zoom, or other conferencing software to facilitate contact petitioner-Pro Bono counsel consultation. NOTE: Chief Counsel and Service employees may **NOT** join meetings set up with a third-party's meeting software. Government employees should not circumvent these access limitations by using personal devices.

### **IRS Partners**

- The same IRS partners who could assist during in-person Settlement Days can also assist during Virtual Settlement Days (e.g., Revenue Agents, Revenue Officers, Appeals Officers). Because of the inherent limitations of Virtual Settlement Days, it may be preferable for these partners to remain "on call" while Counsel meets with petitioners and their representatives. Doing so reduces the complexity of the conference arrangements, such as with a two-way rather than three-way call. It also allows the partners to remain available to assist other Counsel employees participating in the Virtual Settlement Days. As a general matter, Counsel can forward taxpayers' documents to the partners during or after meetings with petitioners. If there is a need for the partner to speak directly with the petitioner, Counsel can arrange for the partner to directly contact the petitioner. This approach allows the Counsel employee to move as quickly as possible to working with other petitioners.
- IT. Virtual Settlement Days cannot happen without technology. IT employees can

troubleshoot any computer issues affecting Counsel and IRS employees. Arranging for direct IT support reduces wait times compared with the Enterprise Service Desk. In case local IT support is not available, the Enterprise Service Desk is still staffed 24 hours per day, including on weekends. IT Remote Support chat is available until 9:30 P.M. Eastern Time on weekdays.

- VSD Contact. Virtual Service Delivery can only be used at established VSD stations. Counsel should coordinate with those having custody over the stations to ensure the stations are available during the Virtual Settlement Day event. This coordination is especially critical for events scheduled during nights or weekends. Most stations are located at government buildings, but some are located at LITCs.

### **Coordinating with Clinics in Advance**

One of the most important things to keep in mind for Settlement Day is not to violate I.R.C. § 6103 by making inadvertent disclosures. To avoid inadvertent disclosures, Chief Counsel should send the invitation letters or emails. As the event date approaches, advise the volunteer representatives about the types of cases that are scheduled (e.g., Schedule C substantiation, EITC, Innocent Spouse, CDP) without disclosing taxpayer information. This is especially important if a petitioner with a novel or rare issue will attend the Settlement Day. Counsel can scan or copy relevant portions of the administrative and legal files. Counsel can then provide copies of the document to the petitioners by mail, email, or EEFax in advance of the Virtual Settlement Day. The petitioners can provide these documents to Pro Bono representatives if they so choose.

## **D. What to Bring to the Event**

Whether Counsel employees are working from their POD or telework location, having everything on hand helps in settling cases efficiently.

### **Staff**

- All of the staff for in-person Settlement Days should also be available for Virtual Settlement Days.
- IT staff (provides technology support).
- Virtual Service Delivery contact (provides access to VSD site).

### **Case Files and Copies**

Whether working inside or outside their PODs, Counsel employees should scan any relevant documents in the administrative or legal files in advance of the session. They should save the files directly to their laptops for ease of access. When working remotely, Counsel employees should have the paper files on hand as a backup. Provide copies of

relevant documents to petitioners by mail, email, or other appropriate means in advance of the session. The taxpayers can then share these documents with a Pro Bono or LITC representative or otherwise use them for a reference.

### **Other Documents and Equipment**

- When working from their PODs, Counsel employees normally have access to any equipment needed for the Virtual Settlement Days.
- When working outside their PODs, Counsel employees should ensure that they have their laptops and power cords; peripherals (keyboards, monitors, and mice), if desired; cable locks; laptop headsets; hotspots or Wi-Fi; and, pens, paper, and other writing materials for notes.
- Employees with a desktop (personal) printer should consider taking them to a telework location.

## **E. How to Run the Event**

### **Procedures: Preparing the Event**

- Counsel identifies types of cases suitable for a Virtual Settlement Day.
- Counsel contacts local LITCs, the ABA Tax Section, and/or Pro Bono associations to solicit participation and select a date (or dates) for the Virtual Settlement Day.
- Counsel secures required government resources for the event:
  - o For WebEx, Counsel attorneys obtain hosting privileges for the software.
  - o For Virtual Service Delivery, counsel contacts the sites to be used. Most of these are at government buildings, but some are at LITCs. If petitioners will use a site in a government building, Counsel may need to contact GSA to ensure there are areas available where petitioners can make private calls, review their documents, or wait for their appointment.
  - o Counsel contacts the Examination, Collection, and Appeals points of contact to request that Examiners, ROs, and AOs be made available on the day of the event.
- Counsel identifies pro se petitioners to invite to the event.
  - o At least two hours should be allotted to every taxpayer so that they may communicate with the LITC prior to meeting with Counsel.
- Counsel will mail or email an event invitation to each petitioner based on the samples referenced in Part VII below. This letter should be sent at least two weeks prior to the event.
- Counsel should call petitioners within one week of the event to remind them of the meeting.
- Counsel should contact the participating LITC(s) and Pro Bono attorneys about a week before the event to determine if any petitioners have made an appointment to attend the event.
- Counsel will provide petitioners with copies of relevant documents by mail or

email (subject to [CC-Notice 2020-002](#)). Petitioners can share these documents with the LITC if they choose.

- Counsel will place relevant documents on a SharePoint so that they may be more easily transmitted to assisting IRS employees.

### **Procedures: Day of the Event**

- If petitioners will join a WebEx or teleconference from home, they will contact the LITC at a designated time using a designated method. The petitioners can discuss their case with the LITC prior to meeting with Counsel.
- For Virtual Service Delivery not at the LITC, or if petitioners wish to travel to the LITC, they should arrive at a designated appointment time. They should contact the LITC representative and meet with the representative by telephone prior to the meeting with Counsel.
- Petitioners meet with Counsel and an LITC representative using WebEx, Virtual Service Delivery, or teleconference. Counsel briefly summarizes the issues for both petitioner and the LITC.
- IRS employees will be on call to assist Counsel, but they typically will not be part of a WebEx, Virtual Service Delivery, or teleconference meeting with the petitioner.
  - o If Counsel requires IRS assistance, they can forward documents and instructions following the meeting.
  - o If necessary, the IRS employees can directly contact petitioners following Counsel's meeting.
  - o If an agreement is reached, Counsel offers a proposed settlement. Counsel prepares the necessary settlement documents and sends them to the petitioner by mail or email (subject to [CC-Notice 2020-002](#)).A Tax Computation Specialists (TCS) can process computation requests the same day.
  - o If a partial agreement is reached, Counsel prepares the necessary settlement documents and sends them to the petitioner by mail or email (subject to [CC-Notice 2020-002](#)).
  - o If an agreement cannot be reached, the parties can develop the case for trial or Counsel can set another appointment with the petitioner to further develop any unresolved issues.

### **Precautions**

Virtual Settlement Days require added precautions to protect petitioners and the IRS.

- I.R.C. § 6103 applies to all aspects of Virtual Settlement Days.
  - o When using WebEx, ensure that each taxpayer receives a separate meeting invitation email. Each WebEx meeting should include a custom password that is separately provided to the petitioner.
  - o Counsel cannot share any taxpayer-specific information with the LITCs prior to the event without formal approval from the petitioner, such as a Form 2848, Form 8821, or an entry of appearance by the LITC.

Remember: Forms 2848 must name one or more individuals. They cannot name LITCs as a whole.

- On the day of the event, Counsel can share information with the LITCs with verbal authorization of the petitioner, but only while they remain present. Counsel should note the petitioner authorized the LITC to receive information. Where there is only an oral authorization, in the interest of protecting PII, it is preferable to share publicly-available documents (including documents filed in the Tax Court) prior to sharing internal IRS documents.
- Taxpayers may ask family members or friends to join the Virtual Settlement Days meetings. Counsel can share information with these individuals with the verbal authorization of the petitioners, but only as long as the petitioners remain present on the call.
- Counsel should note in the administrative file the names of any individuals the petitioner authorizes to be on the call. When possible, Counsel should request an email stating who the petitioner is authorizing to join the meeting.
- If a petitioner's issue is so complex that it would benefit the LITC to know before the day of the event, simply tell the LITC what Code or Regulation is relevant without providing any underlying facts. That way the LITC is familiar with the law, but there is no taxpayer information disclosed.
- LITCs and petitioners have attorney-client privilege
  - Regardless of the model of Virtual Settlement Days, ensure that petitioners and LITC representatives have time to discuss the petitioners' case without the physical or virtual presence of Counsel or the IRS.
- Potentially Dangerous Taxpayers
  - Some Virtual Service Delivery sites are located on federal property. Counsel is responsible for the safety of any LITC or representatives or petitioners using those sites.
  - Have a Counsel point of contact for petitioners and LITCs.
  - Ensure that the LITCs know whom to contact if a taxpayer becomes threatening.

## **IV. Utilizing Social Media**

Social media posts are less valuable in Virtual Settlement Days because these sessions do not lend themselves as much to a “walk-in” format. Virtual Settlement Days social media posts should emphasize the need to make an appointment and identify a contact for making them. Ideally, this contact should be an LITC employee or other Pro Bono representative rather than a Counsel or IRS employee. At least a few days before the session, the appointments contact should provide Counsel with the identifying information of individuals who made an appointment.

## **V. Working with Collection**

During Virtual Settlement Days, there are many tasks that Counsel employees may need to perform in lieu of Revenue Officers (ROs). For instance, because taxpayers are using a computer, Counsel employees can share links for forms, publications, and information via email or WebEx chat. Nevertheless, there are tasks where an RO's assistance would be required, such as reviewing Collection Information Statements or installment agreement requests. For that reason, ROs should be on call to assist Counsel employees during Virtual Settlement Days. Revenue Officers can join existing telephone or WebEx meetings. They can also contact taxpayers directly following a meeting with Counsel.

## **VI. After the Event- Follow Up**

Counsel employees should follow up with petitioners and, if appropriate, LITC and/or Pro Bono representatives, to ensure that Counsel receives any documents or information that were promised to be provided. It is appropriate for Counsel to collect documents, even where they will ultimately go to another function, such as TCS or Collection.

The attendee satisfaction survey should not be used unless the taxpayer and LITC representative are present together. There is no assurance of anonymity if the taxpayer emails or mails the survey directly to Counsel or the IRS. If the petitioner and LITC are present together, the LITC representatives should collect the surveys in an envelope and then forward the responses by mail or fax to Counsel.

## VII. Samples and Templates

The samples and templates available for Virtual Settlement Days are specific to that model. These samples and templates are available to Counsel. The invitations should be short and easy to read. Prior to sending meeting invitations to a taxpayer, consider preparing a joint invitation with the LITC. The letters may all be mailed to taxpayers. When emailing a meeting invitation to taxpayers, ensure that you include the contact information for the participating LITC in the body of any email.

The invitation text may be included in the body of an unencrypted email provided that the identifying information is limited to that available on the Tax Court docket (e.g., case name, docket number, trial date, and trial location). If there is additional, taxpayer-specific information provided (e.g., the nature of the case), you must follow [CC-Notice 2020-002](#) to transmit the invitation by email.

The following samples are available to Counsel:

- Invite Letters (WebEx, Virtual Service Delivery, and Telephonic)
- Invite Emails (WebEx, Virtual Service Delivery, and Telephonic)
- Appointment Scheduling Email Template
- Emails to TCOs, Collection, etc.