



MANUAL TRANSMITTAL

Department of the Treasury
Internal Revenue Service

5.7.6

APRIL 10, 2023

EFFECTIVE DATE

(04-10-2023)

PURPOSE

- (1) This transmits revised IRM 5.7.6, Trust Fund Compliance, Trust Fund Penalty Assessment Action.

MATERIAL CHANGES

- (1) IRM 5.7.6 has been updated to provide clarification and expansion of existing material. The following table details changes to this IRM section:

IRM	Change
Material Changes	Reformatted from paragraph to table.
IRM 5.7.6.1	A new subsection, Program Scope and Objectives, was inserted to provide internal controls information. All following subsections were renumbered to improve the flow of information.
IRM 5.7.6.2	Renumbered from IRM 5.7.6.1.1.
IRM 5.7.6.2	Renamed Title to Responsible Person's Response to Letter 1153 to differentiate the business taxpayer form the individual(s) being investigated.
IRM 5.7.6.2(1)	Converted incorrect "blockpara" format into a note.
IRM 5.7.6.2(3)	Deleted reference to signed Form 2751 as a waiver to the 60-day restriction of notice and demand.
IRM 5.7.6.2(3) Note	Added additional guidance regarding signed Form 2751.
IRM 5.7.6.2(4)	Replaced reference to "Advisory" with "Civil Enforcement Advice and Support Operations" (CEASO).
IRM 5.7.6.2.1	Renumbered from IRM 5.7.6.1.1.1.
IRM 5.7.6.2.1(6)	Clarified actions revenue officers should follow to ensure continuity of collection actions.

IRM	Change
IRM 5.7.6.3	Renumbered from IRM 5.7.6.1.2.
IRM 5.7.6.3(1)	Added language emphasizing that a signed Form 2751 no longer extinguishes responsible person's appeal rights.
IRM 5.7.6.3(8)	Clarified actions revenue officers should follow to ensure continuity of collection actions.
IRM 5.7.6.4	Renumbered from IRM 5.7.6.1.3.
IRM 5.7.6.4(7)	Added as guidance to request written FTM and/or appeal process withdrawal when responsible person verbally expresses intention of withdrawing from FTM or appeal process.
IRM 5.7.6.5	Renumbered from IRM 5.7.6.1.4.
IRM 5.7.6.6	Renumbered from IRM 5.7.6.1.5.
IRM 5.7.6.6(2) Note	Clarified the validity of a POA.
IRM 5.7.6.7	Renumbered from 5.7.6.1.6.
IRM 5.7.6.7.1	Renumbered from 5.7.6.1.6.1.
IRM 5.7.6.7.2	Renumbered from 5.7.6.1.6.2.
IRM 5.7.6.7.3	Renumbered from 5.7.6.1.6.3.
IRM 5.7.6.8	Renumbered from 5.7.6.1.7.
IRM 5.7.6.8(1)	Deleted unnecessary reference to IRM 5.7.6.1.8.
IRM 5.7.6.9	Renumbered from 5.7.6.1.8.
IRM 5.7.6.9(2)(d)	Added specific reference to Letter 1154-M as letter group manager should mail to the responsible person.
IRM 5.7.6.9(3)(d)	Deleted language mentioning CPM review of TFRP case files for completeness and/or timeliness. FC is responsible for this action.
IRM 5.7.6.9(5)	Deleted language mentioning CPM review of TFRP case files for completeness and/or timeliness. FC is responsible for this action.

IRM	Change
IRM 5.7.6.9(7)	Converted incorrect “blockpara” format into a new paragraph (8)
IRM 5.7.6.10	Renumbered from 5.7.6.1.9.
IRM 5.7.6.11	Renumbered from 5.7.6.1.10.
IRM 5.7.6.12	Renumbered from 5.7.6.2.
IRM 5.7.6.12(5)	Added reference to Exhibit 1.4.50-2.
IRM 5.7.6.13	Renumbered from 5.7.6.3.
IRM 5.7.6.13(4)	Reference to signed Form 2751 deleted since it no longer applies.
IRM 5.7.6.13(4) Note	Added emphasizing that a signed Form 2751 no longer extinguishes responsible person’s appeal rights.
IRM 5.7.6.13(5)	Adding reference to Automated Form 2859 Portal
IRM 5.7.6.13.1	Renumbered from 5.7.6.3.1.
IRM 5.7.6.13.1(1)	Added instructions to list tax periods in chronological order.
IRM 5.7.6.14	Renumbered from 5.7.6.4.
IRM 5.7.6.14(1)	Added Form 6639 to the required documents table.
IRM 5.7.6.14(1)	Added Pages 1-4 and amended forms to Form 4183 requirement.
IRM 5.7.6.14(2)	Added Letter 1154-M to the additional documents table.
IRM 5.7.6.15	Renumbered from 5.7.6.5
IRM 5.7.6.15(2)	Updated information on centralized CPM site now responsible for processing closed TFRP files requests.
Exhibit 5.7.6-1	Updated document to be forwarded to Publishing.
Throughout	Replaced the term “party” with “person” to meet the definition of “person” in IRC 6672.

IRM	Change
Throughout	Replaced the term “taxpayer” with “responsible person” to differentiate the business taxpayer from the individual(s) being investigated and/or assessed with the TFRP.
Throughout	Grammar and syntax corrections made throughout this section.
Throughout	Added inclusive pronouns.
Throughout	Editorial changes were made throughout this section to add clarity and to update, correct, or add citations.

EFFECT ON OTHER DOCUMENTS

This material supersedes IRM 5.7.6, dated July 05, 2017. This IRM revision incorporates Interim Guidance Memorandum (IGM) SBSE-05-0321-0004, New Guidance for Form 2751, Proposed Assessment of the Trust Fund Recovery Penalty ,dated March 5, 2021.

AUDIENCE

Small Business/Self-Employed Collection Employees

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5.7.6

Trust Fund Penalty Assessment Action

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5.7.6.1
(04-10-2023)
Program Scope and Objectives

- (1) **Purpose:** This IRM section provides instructions for Collection employees for the processing of Trust Fund Recovery Penalty (TFRP) cases, including protests and quick and prompt assessment actions.
- (2) **Audience:** The primary users of this IRM are Field Collection revenue officers (RO) and their group managers (GM).
- (3) **Policy Owner:** Director, Collection Policy, SB/SE.
- (4) **Program Owner:** Collection Policy, SB/SE, Employment Tax (ET) is the program owner of this IRM.
- (5) **Primary Stakeholders:**
 - Revenue officers (RO).
 - Revenue officer group managers (GM).
 - Civil Enforcement Advice and Support Operations (CEASO) employees.
- (6) **Program Goals:** The Trust Fund Recovery Penalty (TFRP) is based on IRC 6672. It serves three purposes:
 - It encourages prompt payment of income and employment taxes withheld from employees and other collected taxes;
 - It makes the responsible person liable for 100% of the unpaid trust fund taxes; and
 - It facilitates collection of trust fund taxes from secondary sources.

By following the procedures in this IRM, users will be able to correctly identify the individuals liable for the TFRP, assemble the required supporting documentation, and handle ASSED issues.

- (7) **Contact Information:** Email recommendations and suggested changes for this IRM to the Content Product Owner. The owner is listed on the Product Catalog Information page which is found in the Forms/Pubs/Products IRM listing of the Media and Publications web site. <http://publish.no.irs.gov/catlg.html#tab=tab1>.

5.7.6.1.1
(04-10-2023)
Background

- (1) The Trust Fund Recovery Penalty (TFRP) is based on IRC 6672 Failure to collect and pay over tax, or attempt to evade or defeat tax, and facilitates the collection of tax and enhances voluntary compliance. The TFRP serves as an alternative means of collecting unpaid trust fund taxes when taxes are not fully collectible from the company/business that failed to pay the withheld taxes. Internal Revenue Manual (IRM) 5.7.6, Trust Fund Penalty Assessment Action, provides procedures and guidance for processing TFRP cases. Revenue officers are responsible for responding to protests and initiating all TFRP assessment actions, including quick and prompt assessment procedures when necessary.

5.7.6.1.2
(04-10-2023)
Authority

- (1) IRC 3505, Liability of third parties paying or providing for wages.
- (2) IRC 6103, Confidentiality and disclosure of returns and return information.
- (3) IRC 6320, Notice and opportunity for hearing upon filing of notice of lien.
- (4) IRC 6323, Validity and priority against certain persons.
- (5) IRC 6672, Failure to collect and pay over tax or attempt to evade or defeat tax.

- (6) IRC 7503, Time for performance of acts where last day falls on Saturday, Sunday, or legal holiday.
- (7) Rev. Proc. 2012-18, Ex Parte Communications Between Appeals and Other Internal Revenue Service Employees.

5.7.6.1.3
(04-10-2023)
Responsibilities

- (1) The Director, Collection Policy, is the executive responsible for the policies and procedures utilized by Collection personnel.
- (2) Field Collection group managers and revenue officers are responsible for ensuring compliance with the guidance and procedures described in this IRM.
- (3) Group managers have the authority to review and approve TFRP recommendations. Group managers are also responsible for reviewing TFRP files when a revenue officer has made a case determination after receiving a responsible person protest.
- (4) Revenue officers are responsible for ensuring TFRP case files contain all documentation needed to support assessment. Revenue officers are also responsible for responding to protests and initiating all TFRP assessment actions, including quick and prompt assessment procedures, when necessary.
- (5) Field Collection is responsible for ensuring taxpayers are informed of their rights in accordance with the Taxpayer Bill of Rights (TBOR) adopted in June of 2014.

5.7.6.1.4
(04-10-2023)
Program Management and Review

- (1) Program Reports: The Automated Trust Fund Recovery (ATFR) program is used for group controls of imminent assessment statutes and timely TFRP case actions. ATFR pulls data from the Integrated Collection System (ICS) and the Integrated Data Retrieval System (IDRS).
- (2) Program Effectiveness: Embedded Quality (EQ) reviews conducted by group managers assess the timeliness of TFRP case actions. Collection Automation Support and Security (CASS) provides monthly ATFR timeliness reports that measure TFRP program timeliness goals. These reports provide the information necessary to allow revenue officers the opportunity to make timely and appropriate TFRP recommendations and assessment actions. Collection Policy does periodic program reviews to identify trends and opportunities to improve timely and effective TFRP case actions.

5.7.6.1.5
(04-10-2023)
Program Controls

- (1) ATFR tracks and records TFRP assessment actions and history. Field employees are generally the primary users of ATFR based on the employees' duties and responsibilities.
- (2) Field Collection employees use ICS for inventory control and history documentation.
- (3) Managers approve TFRP determinations and assessment recommendations.
- (4) Territory Managers (TM) and Area Directors (AD) include TFRP timeliness trends in operational reviews.
- (5) Managers are required to follow program management procedures and controls addressed in IRM 1.4.50, Collection Group Manager, Territory Manager and Area Director Operational Aid.

5.7.6.1.6
(04-10-2023)
Acronyms

- (1) This table lists commonly used acronyms and their definitions:

Acronym	Definition
ASED	Assessment Statute Expiration Date
ATFR	Automated Trust Fund Recovery Penalty Program
CAP	Collection Appeals Program
CC	Command Code
CDP	Collection Due Process Hearing
CPM	Control Point Monitoring
CNC	Currently Not Collectible
CCO	Campus Collection Operation
CSED	Collection Statute Expiration Date
DLN	Document Locator Number
FRC	Federal Records Center
FTM	Fast Track Mediation
IA	Installment Agreement
IBTF-IA	In-Business Trust Fund Installment Agreement
ICS	Integrated Collection System
IDRS	Integrated Data Retrieval System
IRC	Internal Revenue Code
IRM	Internal Revenue Manual
NFTL	Notice of Federal Tax Lien
OI	Other Investigation
RO	Revenue Officer
SB/SE	Small Business/Self Employed
TBOR	Taxpayer Bill of Rights
TFRP	Trust Fund Recovery Penalty

- (2) Additional acceptable acronyms and abbreviations are found in the ReferenceNet Legal and Tax Research Services, which may be viewed at: <https://rnet.web.irs.gov/Resources/AcronymSearch.aspx>.

5.7.6.1.7
(04-10-2023)

Related Resources

(1) IRM resources

- IRM 1.15.4, Retiring and Requesting Records
- IRM 5.1.8, Courtesy Investigations
- IRM 5.1.10, Taxpayer Contacts
- IRM 5.7.3, Establishing Responsibility and Willfulness for the Trust Fund Recovery Penalty (TFRP)
- IRM 5.7.4, Investigation and Recommendation of the TFRP
- IRM 5.7.5, Collectibility Determination
- IRM 5.7.7, Payment Application and Refund Claims
- IRM 5.12.2, Notice of Lien Determinations
- IRM 5.12.6, Appeals Processes Involving Liens
- IRM 5.14.1, Securing Installment Agreements
- IRM 5.14.7, BMF Installment Agreements
- IRM 5.15.1, Financial Analysis Handbook
- IRM 5.16.1, Currently Not Collectible
- IRM 5.19.14, Trust Fund Recovery Penalty (TFRP)
- The Taxpayer Bill of Rights (TBOR) lists rights that already existed in the tax code, putting them in simple language and grouping them into 10 fundamental rights. Employees are responsible for being familiar with and acting in accord with taxpayer rights. See IRC 7803(a)(3), Execution of Duties in Accord with Taxpayer Rights. For additional information about TBOR see: <https://www.irs.gov/taxpayer-bill-of-rights>. and Policy Statement 1-236 in IRM 1.2.1.2.36

5.7.6.2
(03-05-2021)

Responsible Person's Response to Letter 1153

- (1) After Letter 1153 and Form 2751, Proposed Assessment of Trust Fund Recovery Penalty, have been properly delivered, see IRM 5.7.4.7, Notification of Proposed Assessment, the responsible person has 60 days (75 if the letter was addressed outside of the United States) from the date of the mailing of the notice or the date of personal delivery to respond.

Note: A protest is timely if it is postmarked or mailed by certified or registered mail, so that the mailing date can be proven, on or before the 60th day (75th day if the letter was addressed outside of the United States) after the date Letter 1153 was mailed or personally delivered. A private postage meter stamp is not evidence of when a request for appeal was mailed; it merely establishes when it was stamped.

In determining the timeliness of the appeal, the guidelines in IRC 7503 should be followed, which state in part:

“When the last day prescribed under authority of the internal revenue laws for performing any act falls on Saturday, Sunday, or a legal holiday, the performance of such act shall be considered timely if it is performed on the next succeeding day which is not a Saturday, Sunday, or a legal holiday.”

Allow an additional 5 days beyond the response period allowed in Letter 1153 to enable IRS to receive and process all timely mailed requests.

- (2) The responsible person can take the following actions in response to Letter 1153:

- Agree to the assessment by signing Form 2751.
- Appeal the proposed assessment.
- Provide no response.

- (3) The ATFR application will not allow ROs to proceed until one of the following actions occurs:

- The 60-day (or 75-day) time period expires
- A protest letter is received
- A jeopardy assessment is being made.

Note: Do not treat a signed Form 2751 as a conclusive waiver until the 60 or 75-day restriction period (plus five additional days) expires, as responsible persons may change their mind after signing the waiver. A responsible person's signature on the Form 2751 does not extinguish their appeal rights.

- (4) In all cases, regardless of the responsible person's action, the RO will complete TFRP processing and forward the case to Control Point Monitoring (CPM), Civil Enforcement Advice and Support Operations (CEASO) not later than 30 calendar days after the required response period allowed in Letter 1153, (60 days after the date Letter 1153 was mailed or personally delivered, 75 days if the letter was addressed outside of the United States). In the event an employee is unable to meet the 30-day time period, they shall document the reason for the delay in the ICS history.

5.7.6.2.1
(04-10-2023)
**No Response
(Unagreed) Cases**

- (1) If the responsible person fails to respond to Letter 1153 within 60 days after the mailing or personal delivery date, (75 if the letter was addressed outside of the U.S.) plus five days to allow the IRS to receive and process all timely mailed protests, then the case is considered unagreed.

- (2) For regular assessments, follow the procedures in IRM 5.7.6.12, Revenue Officer Assessment Actions. For cases requiring quick or prompt assessment action, follow the procedures in IRM 5.7.6.13, Quick and Prompt Assessment Actions.

Note: Quick assessment action should be taken when there are less than 30 days remaining on the ASER; prompt assessment action should be taken when collection appears to be at risk and the intention is to proceed with collection action immediately following the period for notice and demand.

- (3) Follow the procedures in IRM 5.7.7.3, Pre-Assessment Payment, for processing payments received from a responsible person prior to the actual assessment of the TFRP.
- (4) If the responsible person is unable to full pay the proposed assessment, follow the instructions in IRM 5.15.1, Financial Analysis Handbook, to determine the appropriate case resolution based on an analysis of the responsible person's financial condition. This may include the following:
- Pre-assessed CNC – See IRM 5.16.1.4(3), Requesting Currently Not Collectible Input for Assessed and Pre-assessed Tax Periods.
 - Pre-assessed installment agreement – See IRM 5.14.1.4.3, Notice of Federal Tax Lien and Installment Agreements, and IRM 5.14.1.4.5, Installment Agreements with Pre-assessed Modules.
 - Association with a business installment agreement and suspended in Status 63 – See IRM 5.14.7.4.1, Trust Fund Recovery Penalties and Installment Agreements).

- (5) **ROs must make a Notice of Federal Tax Lien (NFTL) filing determination in accordance with the policy and procedures in IRM 5.12.2, Notice of Lien Determinations, prior to taking the closing actions above.**

Note: Advise the responsible person of their right to appeal under the Collection Appeals Program (CAP) prior to filing the NFTL. Also explain to the responsible person their right to request a Collection Due Process (CDP) hearing under IRC 6320 once the NFTL has been filed. See IRM 5.12.6, Appeals Processes Involving Liens.

- (6) To ensure the continuity of collection actions, if the TFRP account is not resolved (pre-assessed CNC or IA, full pay, etc.), the RO should request assignment of the TFRP assessment against responsible persons(s) as an ICS case and make a NFTL filing determination in accordance with the policy and procedures in IRM 5.12.2, Notice of Lien Determinations. ROs should request assignment of a TFRP assessment even if the responsible person resides outside the RO groups' geographic area. If personal contact was established with the responsible person (even by telephone) to conduct a Form 4180 interview and to secure financial information as required by IRM 5.7.5, Collectibility Determination, the RO should continue to work with the responsible person to resolve the account. If field contact will be required to resolve the case and the responsible person's contact address is outside their groups' geographic area, ROs can either issue an ICS Other Investigations (OI) or transfer the case after discussing the circumstances of the case with their manager.

5.7.6.3
(03-05-2021)
Agreed Cases

- (1) If the responsible person agrees to the assessment by signing Form 2751, prepare Letter 1155, Notice of Agreed Trust Fund Recovery Penalty, and deliver the letter to the responsible person no later than 14 calendar days after receipt of signed Form 2751. Prepare the letter using the ATFR application whenever possible. Document the case file with an explanation if Letter 1155 is delivered more than 14 days after receipt of signed Form 2751. Because responsible persons could change their minds after signing Form 2751 (and therefore request Appeals review before the deadline listed in Letter 1153), do not treat a case as agreed until that deadline expires, 60 days, or 75 days if the letter is addressed to the responsible person outside of the United States (plus five days). A responsible person's signature on the Form 2751 does not extinguish their appeal rights.
- (2) Input the date Form 2751 was signed onto the ATFR application.
- (3) For regular assessments, follow procedures in IRM 5.7.6.12, Revenue Officer Assessment Actions. For cases requiring quick or prompt assessment action, follow the procedures in IRM 5.7.6.13, Quick and Prompt Assessment Actions.

Note: Quick assessment action should be taken when there are less than 30 days remaining on the ASER. Prompt assessment action should be taken when collection action appears to be at risk and the intention is to proceed with collection action immediately.

- (4) Unless the responsible person has filed bankruptcy, request full payment from them when they agree to the assessment by signing Form 2751.

Note: Contact Insolvency for advice on how to proceed on cases where the responsible person has filed bankruptcy. See IRM 5.7.4.8.3, Responsible Person in Bankruptcy, for information on ensuring a timely proof of claim is prepared for these cases.

- (5) Follow the procedures in IRM 5.7.7.3, Pre-Assessment Payment, for processing payments received from the responsible person prior to the actual assessment of the TFRP.
- (6) If the responsible person is unable to full pay the proposed assessment, follow the instructions in IRM 5.15.1, Financial Analysis Handbook, to determine the appropriate case resolution based on an analysis of the responsible person's financial condition. This may include the following:
 - Pre-assessed CNC – See IRM 5.16.1.4(3), Requesting Currently Not Collectible Input for Assessed and Pre-assessed Tax Periods.
 - Pre-assessed installment agreement – See IRM 5.14.1.4.3, Notice of Federal Tax Lien and Installment Agreements and IRM 5.14.1.4.5, Installment Agreements with Pre-assessed Modules.
 - Association with a business installment agreement and suspended in Status 63 – See IRM 5.14.7.4.1, Trust Fund Recovery Penalties and Installment Agreements.
- (7) **ROs must make a Notice of Federal Tax Lien (NFTL) filing determination in accordance with the policy and procedures in IRM 5.12.2, Notice of Lien Determinations, prior to taking the closing actions above.**

Note: Advise the responsible person of their right to appeal under the Collection Appeals Program (CAP) prior to filing the NFTL. Also explain to the responsible person their right to request a Collection Due Process (CDP) hearing under IRC 6320 once the NFTL has been filed. See IRM 5.12.6, Appeals Processes Involving Liens.

- (8) To ensure the continuity of collection actions, if the TFRP account is not resolved (pre-assessed CNC or IA, full pay, etc.), the RO should request assignment of the TFRP assessment against responsible persons(s) as an ICS case and make a NFTL filing determination in accordance with the policy and procedures in IRM 5.12.2, Notice of Lien Determinations. ROs should request assignment of a TFRP assessment even if the responsible person resides outside the RO groups' geographic area. If personal contact was established with the responsible person (even by telephone) to conduct a Form 4180 interview and to secure financial information as required by IRM 5.7.5, Collectibility Determination, the RO should continue to work with the responsible person to resolve the account. If field contact will be required to resolve the case and the responsible person's contact address is outside their groups' geographic area, ROs can either issue an ICS Other Investigations (OI) or transfer the case after discussing the circumstances of the case with their manager.

5.7.6.4
(04-10-2023)
Appealing the Proposed Assessment

- (1) Letter 1153 advises the responsible person of their appeal rights. The type of appeal the responsible person must make is based on the dollar amount of the proposed assessment.
- (2) Letter 1153 also advises the responsible person they may contact the RO within ten days after delivery if:

- They don't agree with the proposed assessment.
- Have additional information to support their claim.
- Wish to resolve the matter informally.

Note: In order to preserve their appeal rights, the responsible person must mail (or fax, if applicable) a written appeal within 60 days of the mailing or personal delivery of Letter 1153 (75 days if the letter is addressed to the responsible person outside of the United States). If the RO does not agree with the information submitted informally, then the RO should advise the responsible person they must follow the appeal procedures included in Letter 1153.

- (3) TFRP cases are also eligible for Fast Track Mediation (FTM). This program is designed to expedite case resolution since the entire process normally takes between 30 to 40 days to complete. Additional information can be found in Pub 3605, Fast Track Mediation - A Process for Prompt Resolution of Tax Issues. Pub 3605 should be provided to the responsible person to explain the FTM process.

Note: Fast Track Mediation involves Appeals employees serving as mediators and facilitating settlement discussions while jurisdiction of the case is still with Collection. The prohibition against ex parte communications between Appeals employees and originating function employees **does not** apply to FTM because the Appeals employees are not acting in their traditional Appeals settlement role. Ex parte communications, such as a private caucus between the Appeals mediator and Collection employees during the course of the mediation session, is permissible under the ex parte communication rules. Part of the role of the mediator is to meet separately with each side in order to bring about a resolution. See Rev. Proc. 2012-18.

- (4) The ASED is only extended for cases where the responsible person files a proper appeal within the allowable time period; FTM has no impact on the ASED or the regular appeals process. Advise the responsible person even if they choose FTM, they must continue to follow the procedures in Letter 1153 by filing the appropriate request within 60 days (75 days if the letter is addressed to the responsible person outside of the United States) of issuance of the Letter 1153 if they wish to have the case considered by the Appeals office in case the FTM is not resolved in their favor.
- (5) Both the responsible person and the RO must agree to mediate. The responsible person must have completed a Form 4180, Report of Interview with Individual Relative to Trust Fund Recovery Penalty or Personal Liability for Excise Tax and supplied all requested back-up documentation related to the trust fund recovery penalty investigation. To initiate the FTM process, the RO will complete Form 13369, Agreement to Mediate, and a brief summary of issues in memorandum form and forward the documents to Appeals within three days of securing the responsible person's signature.
- (6) If the parties do not reach an agreement, then the case will be forwarded to Appeals through CPM, if the responsible person followed the instructions in Letter 1153 regarding the formal appeal process. The case will then be assigned to a different Appeals officer. If the responsible person did not follow the formal appeal process, the case should be forwarded for assessment. The

responsible person may still file a claim for refund after assessment if appropriate payment has been made; see IRM 5.7.7.5 Claim for Refund.

- (7) If at any time during either the FTM or formal appeal process the responsible person expresses their intention of withdrawing from the FTM and/or appeal process, the RO should attempt to secure a written statement from the responsible person, indicating their request. The RO should include copies of the statement in both the TFRP and corporate case files. If the responsible person changes their mind, then they may still submit a formal protest, provided they are still within the 60-day (75-day if the letter is addressed to the responsible person outside of the United States) timeframe as indicated in IRM 5.7.6.2, Responsible Person's Response to Letter 1153.
- (8) If the RO agrees with the information submitted informally or if the parties reach an agreement through the mediation process, then the RO should change the determination by following the procedures in IRM 5.7.6.8, Revenue Officer Agrees With Protest.
- (9) If the RO does not change the determination based on the information submitted informally, they should advise the responsible person to follow the formal protest procedures outlined in Letter 1153 in order to protect their appeal rights.
- (10) If the amount of tax liability proposed for the period is:

Dollar Amount	Type of Appeal
\$25,000 or Less	Small Case Request
More than \$25,000	Formal Written Protest

Note: A responsible person may contest all of the periods listed in the notice in a single protest. However, If one tax period and/or the sum of all the tax periods is more than \$25,000 the responsible person must submit a Formal Written Protest.

- (11) IRM 5.7.6.5, Small Case Request, contains the guidelines on the information the responsible person should include in a Small Case Request. IRM 5.7.6.6, Formal Written Protest, contains the information the responsible person should include in a Formal Written Protest. The responsible person should submit any additional information or documentation they want the Appeals officer to consider.

Note: Usually appeals of penalty cases involve issues of responsibility and/or willfulness or how the penalty was calculated.

5.7.6.5
(04-13-2006)
Small Case Request

- (1) The responsible person should submit a Small Case Request in duplicate and should include:
 - A copy of Letter 1153 or the responsible person's name, address, Social Security number, and any other identifying information.
 - A statement that the responsible person wants an Appeals conference.
 - A list of issues the responsible person disagrees with and an explanation of why they disagree.

5.7.6.6
(04-10-2023)

Formal Written Protest

- (1) The responsible person should submit a Formal Written Protest in duplicate and should include:

- The responsible person's name, address, and Social Security number.
- A copy of Letter 1153 or date and number of the letter.
- A statement that the responsible person wants a conference.
- The tax periods involved (from Form 2751).
- A list of issues the responsible person disagrees with and an explanation of why they disagree.

Note: The following statement must be added to declare the information submitted in this item is true: "Under penalties of perjury, I declare that I have examined the facts presented in this statement and any accompanying information, and, to the best of my knowledge and belief, they are true, correct, and complete."

- If applicable, the law or other authority the responsible person is relying on to support their arguments along with an explanation of what the law is and how it applies.
- (2) If an authorized representative (Form 2848, Power of Attorney and Declaration of Representative, or a properly written power of attorney or authorization is acceptable) prepares and signs the protest for the responsible person, they must substitute a declaration stating:
- That they submitted the protest and accompanying documents.
 - Whether they know personally that the facts stated in the protest and accompanying documents are true and correct.

Note: A valid POA is a power of attorney who is authorized to represent the responsible person (not the business entity) protesting the TFRP assessment. Refer to IRM 5.1.23 Taxpayer Representation for further information.

5.7.6.7
(07-05-2017)

Receipt of Protest

- (1) If the responsible person responds to Letter 1153 within the appropriate time frames, see IRM 5.7.3.7.2, Impact of Letter 1153 on Assessment Statute, and IRM 5.7.6.2, Responsible Person's Response to Letter 1153, review the request within 10 days of receipt to determine if the information is complete as discussed in IRM 5.7.6.5, Small Case Request, or IRM 5.7.6.6, Formal Written Protest.

Note: A protest filed within the appropriate time frame is considered timely even if it is incomplete. Retain the protest mailing envelope (or original faxed document) so the timeliness of the protest can be determined. Stamp the protest with the date it was received and document receipt of the protest in the ICS case history. **If a protest is timely filed in a case in which Letter 1153 was properly delivered before the expiration of the ASED, the ASED will not expire before 30 days after Appeals' final administrative determination or 90 days after the date of the mailing or delivery of the Letter 1153, whichever is later.**

Note: A timely filed protest signed by a representative, who has either failed to submit a power of attorney or submitted a defective one, is considered timely. This original filed protest is still valid even if the responsible person decides to represent themselves later during the Appeals process.

- (2) If the information in the protest is incomplete, contact the responsible person/representative to inform them that any defects in the protest should be corrected. If the responsible person does not provide a perfected protest prior to the end of the 30-day period to complete TFRP processing and forward the case to CPM, the RO should still follow the procedures in IRM 5.7.6.9, Revenue Officer Disagrees With Protest. Appeals will accept jurisdiction of a TFRP protest even if all information as outlined in IRM 5.7.6.5, Small Case Request, or IRM 5.7.6.6, Formal Written Protest, is not included in the protest.
- (3) The responsible person is not entitled to appeal the proposed TFRP if they did not file a timely protest. Refer to instructions contained in IRM 5.7.6.2, Responsible Person's Response to Letter 1153, to determine whether the protest is timely. If the responsible person's protest is untimely, the employee handling the proposed TFRP assessment will:
 - a. Contact the responsible person to notify that the protest was late, and the IRS will assess the TFRP.
 - b. Advise the responsible person they may file Form 843, Claim For Refund and Request for Abatement, once the TFRP is assessed.
 - c. Do not transmit the case to Appeals.
 - d. Complete the TFRP assessment process and forward the case to CPM.
- (4) Ensure the correct Protest Postmark Date has been entered on ATFR. ATFR will measure the postmark date entered and reject it if it is untimely. ATFR will remind RO to generate and mail the Letter 1154. CPM will not review protest files to verify the timeliness of protests or the Protest Postmark Dates input by the RO.

5.7.6.7.1
(12-07-2012)
**Review of TFRP Protest
for New Information**

- (1) The RO will review the responsible person's protest to determine if they have raised new information. New information is information that was not previously discussed with or raised by the responsible person, or not previously investigated and documented by the RO.

Example: A RO conducts a Form 4180 interview with a responsible person who states they did not sign checks for the business. Subsequent to the Form 4180 interview, the RO documents a review of a sampling of checks and determines the individual did sign checks for the quarters of the proposed TFRP. The responsible person submits a protest stating they did not sign checks for the business. This is not new information.

Example: A responsible person submits a protest stating they were not willful because the business did not have funds to pay the taxes. The RO had previously documented the responsible person allowed payments to other creditors in preference to the taxes. This is not new information.

Example: A responsible person submits a protest stating they were out of the country for a sustained period during the liability periods and had not previously shared this information with the RO. This is new information that may require additional investigation by the RO.

5.7.6.7.2
(07-15-2015)

**Protest Does Not
Include New Information**

- (1) If the responsible person protest **does not** identify new information requiring additional investigation by the RO, the RO will:

- a. Document receipt of the protest in the ICS history with a statement that the responsible person protest was received on (date) and postmarked on (date) if received by mail, did not contain new information, and the case is being forwarded to the GM for review prior to transmission to CPM.

Note: Cases with more than one responsible person, should include the name of the individual protesting the proposed TFRP assessment.

Caution: Due to ex parte communication rules, the RO should not make any commentary in the ICS or ATFR histories regarding the merits of the protest and should not prepare any memorandum discussing the issues or the basis for the original assertion recommendation. (See Revenue Procedure 2012-18, Ex Parte Communications between Appeals and other Internal Revenue Service Employees.) However, ex parte rules, specifically Revenue Procedure 2012-18(c), allows permissible contemporaneous statements or documents that are pertinent to the originating function's consideration of the case in the administrative file.

- b. Input the "Protest Postmark Date" on ATFR.
- c. Submit the TFRP case file for managerial review.

Note: The manager must ensure no prohibited ex parte communications are included in the TFRP case file or the case history before approving the transmittal of the case to CPM.

Example: A RO received a protest from a responsible person protesting a proposed TFRP. The RO determined the protest did not contain any new information, and documented receipt of the protest in the ICS case history with a statement that the case would be forwarded for managerial review prior to submission to CPM. The RO did not violate the ex parte communication rules in transmitting the administrative file to Appeals as no history discussing the merits of the issues raised in the responsible person's protest were documented in the ICS case history.

5.7.6.7.3
(07-15-2015)

**Protest Includes New
Information**

- (1) If the responsible person protest includes new information requiring additional investigation by the RO, the RO will:

- a. Document receipt of the responsible person protest noting the postmark date if received by mail in the ICS history and **only** the facts concerning the new information requiring additional investigation.

Note: Cases with more than one responsible person, should include the name of the individual protesting the proposed TFRP assessment.

- b. Input the protest postmark date on ATFR.
- c. Conduct additional investigation of the new information as appropriate, and document the ICS history with the investigation actions and results of the investigation. The RO will complete the additional development within the 30-day period to complete TFRP processing. In the event an

employee is unable to meet the 30-day time period, they will document the reason for the delay in the ICS history.

- (2) If the additional investigation results in a decision by the RO to concede all or a portion of the assertion, follow the procedures in IRM 5.7.6.8, Revenue Officer Agrees With Protest.
- (3) If the additional investigation **does not** result in a decision by the RO to concede, follow procedures in IRM 5.7.6.9, Revenue Officer Disagrees With Protest.

5.7.6.8
(04-10-2023)
**Revenue Officer Agrees
With Protest**

- (1) If the information the responsible person submits changes the RO's determination on the case, the RO may concede the case in whole or in part.
- (2) To make the appropriate change on Form 4183, Recommendation re: Trust Fund Recovery Penalty Assessment, input the protest postmark date on ATFR and change the responsibility to partial or none for each period. The TFRP should then be re-calculated and the applicable forms updated. ROs must secure GM approval on an amended Form 4183.
- (3) When the decision is made to reverse all or a portion of the periods on Letter 1153, the RO will take the following actions:
 - Document ICS history with the facts supporting the decision to reverse the prior recommendation.
 - Amend Form 4183 on ATFR and submit the TFRP case file for managerial review and approval.
 - After GM approval of the amended Form 4183, generate Letter 1153-W, Proposed Trust Fund Recovery Penalty Rescission Notification, using ATFR for the applicable periods no longer recommended for assertion.
 - Issue Letter 1153-W and a copy of Letter 1153 to the responsible person. Retain a copy of Letter 1153-W in the TFRP case file.
 - If the assessment recommendation is reversed for all periods, the TFRP file should not be forwarded to CPM. Retain the information in the business case file.

Note: Letter 1153-W cannot be issued after a protest has been forwarded to Appeals.

Caution: Due to the clarification on ex parte communication with Appeals contained in Revenue Procedure 2012-18, Ex Parte Communications between Appeals and other Internal Revenue Service Employees, which applies to communications that take place after May 15, 2012, it is important that ROs document ICS regarding the determination factors only for those periods being conceded. The RO should not make any comments in the ICS or ATFR histories regarding the merits of the protest for the periods not conceded and should not prepare any memorandum discussing the issues or the basis for the original assertion recommendation.

Note: When Letter 1153-W is issued, it will nullify Letter 1153 for the periods listed on Letter 1153-W, and there will be no effect on the Assessment Statute Expiration Date (ASED).

- (4) If a responsible person protests the **entire** assessment and:

IF:	THEN:
the RO concedes the case in part	make the appropriate changes per IRM 5.7.6.8, Revenue Officer Agrees With Protest, issue Letter 1153-W for the conceded periods only, and follow the procedures in IRM 5.7.6.9, Revenue Officer Disagrees With Protest, for the portion of the TFRP still being protested
the RO concedes the case in whole	make the appropriate changes per IRM 5.7.6.8, Revenue Officer Agrees With Protest, and issue Letter 1153-W

- (5) If the responsible person is only protesting part of the assessment and the RO agrees with the information submitted, the RO will make the changes on Form 4183, issue Letter 1153-W for the tax periods being conceded and attempt to secure the responsible person's signature on the updated Form 2751.

Example: An RO conducts a TFRP investigation, secures managerial approval of Form 4183, and issues Letter 1153. After issuing Letter 1153, the RO receives a protest with additional information that results in a decision by the RO to reverse the original assessment recommendation in part. The RO documents ICS, addressing only the information related to the periods being conceded, prepares an amended Form 4183, and submits the TFRP case file for managerial review and approval. Following managerial approval of the amended Form 4183, the RO generates and issues Letter 1153-W to the responsible person for the periods being conceded only. The RO follows guidance in IRM 5.7.6.9, Revenue Officer Disagrees With Protest, to transmit the non-conceded periods to CPM.

Reminder: If the TFRP will not be assessed on any periods, the TC 130, Entire Account Frozen from Refunding, which is systemically generated following the input of Letter 1153 delivery date on ATFR, must be reviewed to determine if reversal of the TC 130 is appropriate. TC 130 may remain appropriate on an individual account, as there may be additional pending TFRP assessments from a different business or related sole proprietor liabilities. If none of these circumstances are present, initiate action to input TC 131, Reversal of TC 130 Refund Freeze.

5.7.6.9
(04-10-2023)
**Revenue Officer
Disagrees With Protest**

- (1) If the information the responsible person submits does not change the RO's determination on the case, or if the responsible person protests the entire assessment and the RO only concedes the case in part, the RO will:
- Secure managerial concurrence of decision.
 - Attempt to make telephone contact with the responsible person to explain the results of the additional investigation.
 - Document the ICS history, noting if contact was made with the responsible person and the details of the discussion.

- d. If the RO is unable to make contact with the responsible person within a reasonable time period, the RO will forward the TFRP case file to the GM.

Note: Cases with more than one responsible person, should include the name of the individual protesting the proposed TFRP assessment.

(2) Upon receipt of the TFRP case file, the GM will take the following actions:

- a. Review the file to determine if the assessment is fully supported and the case file contains all the necessary documents, and document this review action in ICS.
- b. Review the TFRP case file and ICS history to determine if any **new** information has been sufficiently addressed and documented.
- c. If the new information requires additional investigation, the GM will return the TFRP file to the RO.
- d. If the new information has been sufficiently addressed and documented, and the RO was unable to make telephone contact with the responsible person, the GM will prepare Letter 1154-M to the responsible person identifying the new information with a brief summary of the results of the additional investigation. This letter can be generated from either ICS's Trust Fund Recovery Template Listings or Forms/Pubs/Products Repository.
- e. Document issuance of Letter 1154-M to the responsible person in the ICS history and place a copy of the letter in the TFRP case file.

Note: The GM must ensure no prohibited ex parte communications are included in the TFRP case file or the case history before approving the transmittal of the case to CPM. See Rev. Proc. 2012-18. If the case history contains commentary determined to violate the ex parte communication rules, the manager will take appropriate action, which could include sharing the information with the responsible person, or following ICS history removal procedures detailed in IRM 5.1.10.8, Case Histories.

(3) After GM approval, the RO will take the following actions:

- a. Send Letter 1154 to the responsible person and enter the date in ATFR.
- b. Generate and print Form 2749, Request for Trust Fund Recovery Penalty Assessment, and Form 3210-A, Document Transmittal for Trust Fund Recovery Penalty Case Files.

Note: If the responsible person submits a **timely appeal** do not make a quick assessment. See IRM 5.7.3.7.2(2), Impact of Letter 1153 on Assessment Statute.

- c. Input the "2749 to CPM" date onto ATFR
- d. Forward the case file, with the printed Form 2749 and supporting documents, including the protest mailing envelope (or original faxed document) in the **appropriate case file tabs, (Document 9708, Trust Fund Recovery Penalty Case File Tabs (Appeals Cases))**, to CPM. **ROs are NOT to send the case file directly to Appeals.**

Example: A RO received a protest from a responsible person protesting a proposed TFRP. The RO documented the ICS case history that the protest contained new information. The RO conducted an additional investigation of the new information and determined the recommendation to assert the TFRP remained appropriate for three of the four quarters

originally recommended for assertion. The RO amended the Form 4183 on ATFR to remove the quarter no longer recommended for assertion. The RO contacted the responsible person by telephone to advise the responsible person of the results of the investigation and documented the ICS history of the contact. The RO did not violate the ex parte communication rules in transmitting the administrative file to Appeals because the additional investigation results were shared with the responsible person, which was documented in the ICS case history. The RO forwarded the TFRP case file to the GM, who reviewed it to determine if the new information had been sufficiently addressed and documented and no prohibited ex parte communications were included in the TFRP case file or the case history before approving the transmittal of the case to CPM.

Example: A RO received a protest from a responsible person protesting a proposed TFRP. The RO documented the ICS case history that the protest contained new information. The RO conducted an additional investigation of the new information and determined the recommendation to assert the TFRP remained appropriate. The RO attempted to contact the responsible person by telephone to advise the responsible person of the results of the investigation but was unable to reach the responsible person and documented ICS. The RO submitted the TFRP case file to the GM, who after reviewing the case file to determine if the new information had been sufficiently addressed and documented, issued the responsible person Letter 1154-M advising of the final determination, documented ICS, and placed a copy of the letter in the TFRP case file. No ex parte communication rules were violated by transmitting the administrative file to Appeals because the additional investigation results documented in the ICS history were shared with the responsible person in the letter from the GM.

Example: A RO received a protest from a responsible person protesting a proposed TFRP. The RO documented the ICS case history that the protest contained new information. The RO conducted an additional investigation of the new information and determined the recommendation to assert the TFRP remained appropriate. The RO documented the results of the additional investigation but did not contact the responsible person by telephone to advise the responsible person of the results of the investigation and the manager did not send a letter to the responsible person containing the results of the additional investigation. The RO forwarded the TFRP case file to CPM for transmission to Appeals. The RO violated the ex parte communication rules because the written communication in the ICS history addressing the new information raised in the responsible person's protest was not shared with the responsible person.

- (4) The administrative TFRP case file transmitted to Appeals is not an ex parte communication since it sets forth the boundaries of the dispute between the responsible person and the Internal Revenue Service and forms the basis for Appeals to assume jurisdiction. **The TFRP case file should include all information supporting the original recommendation**, as well as any work papers reflecting the manner in which payments have been applied, specifically any payments directed by the responsible person, court order, etc.

- (5) Upon receipt of the TFRP package, CPM will forward it to Appeals. See IRM 5.7.6.10, Transmittal of Case to Appeals.
- (6) **Letter 1153-W cannot be issued after a protest has been forwarded to Appeals.**
- (7) There may be rare instances, after a protest has been sent to Appeals, when Collection will secure significant new information that needs to be provided to Appeals to allow Appeals to fully evaluate the protest. In these rare instances, supplemental information can be provided to Appeals as long as Collection concurrently provides the same information (copy of the written communication sent to Appeals) to the responsible person/representative. Appeals will give the responsible person/representative the chance to respond to the supplemental information.
- (8) When supplemental information is provided to Appeals, the GM will prepare a letter to the responsible person/representative that identifies the new information and explains the information is being provided to Appeals. Include a copy of the written communication to Appeals and any other documents being sent to Appeals. Document issuance of the letter in the ICS history and include a copy of the letter with the supplemental information sent to Appeals.

Example: After submitting a TFRP protest to CPM for transmittal to Appeals, the RO attends a bankruptcy hearing for the business and discovers additional information to further support the TFRP recommendation. The RO seeks GM concurrence that this is significant new information that needs to be shared with Appeals. The GM concurs and issues a letter to the responsible person/representative with the information to be shared with Appeals (including copies of any documents/memos/letters being sent to Appeals) and sends the supplemental information to the Appeals Team Manager along with a copy of the letter sent to the responsible person/representative.

Reminder: The ability to provide significant new information after a protest has been sent to Appeals does not relieve ROs of their duty to ensure TFRP recommendations are fully supported per IRM 5.7.4.2.7, Evidence That May Support Recommendations, at the time of Form 4183 submission to the GM for approval.

5.7.6.10
(04-10-2023)
Transmittal of Case to Appeals

- (1) It is Field Collection's responsibility to ensure all necessary documents, including the ATFR and ICS case histories are contained in the TFRP case file and the protest was received timely; CPM will not review TFRP protest files for timeliness or completeness. TFRP protest case files must be assembled with Document 9708, **Trust Fund Recovery Penalty Case File Tabs (Appeals Cases)**. This will ensure CPM can easily identify all protest cases. Each protesting responsible person file must contain all required documentation to support assessment. If a responsible person's file was a "Supplemental" case file, ensure all pertinent documents from the "Key" case file are copied to the protest file. See IRM Exhibit 5.7.6-1, **TFRP Case File Check Sheet**, to assist in case accuracy and completeness.
- (2) GMs must complete and sign the **TFRP Case File Check Sheet**.
- (3) Submit related cases (two or more responsible persons for the same corporation) together whenever possible.

Note: For cases where one or more responsible person agrees to the assessment and at least one other person is protesting the assessment, submit all files together to CPM. Since the ASER is not protected for the cases that are not being protested, CPM will submit the non-protested cases for assessment and will forward the protested cases to Appeals.

5.7.6.11
(07-15-2015)
**Controlling and
Monitoring Appeals
Cases**

- (1) Each territory should establish a system for reviewing decisions made by Appeals to determine whether quality issues exist that need to be addressed. The territory should arrange periodic meetings with Appeals to discuss trends, workloads and other issues of interest. CPM may also establish a process to follow-up on overage Appeals cases.
- (2) Appeals may request additional information after receipt of a TFRP protest. An Appeals hearing officer may determine new information submitted by a responsible person requires investigative analysis. In this situation, Appeals will retain jurisdiction of the case and forward the new information request via Form 10467, Appeals Division Feedback Report and Transmittal Memorandum, to the originating CPM group for processing. The CPM should consult with an advisor and if it is determined additional investigative analysis by a RO is necessary, CPM will follow guidance in IRM 5.1.8.5.1, Types of Mandatory OIs, to issue an OI to Field Collection. The information should be provided within 45 calendar days of the request, this date may be extended by mutual agreement. These situations should be highly uncommon. To avoid ex parte communications, Appeals has the responsibility for informing the responsible person that the information was sent to Field Collection for investigation, sharing Field Collection's response with the responsible person and allowing the responsible person time to comment.
- (3) Once a final determination has been made, Appeals will:
 - Notify CPM of its decision.
 - Notate their memorandum "ASER expires 30 days from (the specific date Appeals has made their determination)" when applicable.

CPM will update ATFR with the date the case was returned from Appeals and the decision (i.e., No change, Partial Change, or Not Responsible) made by Appeals. CPM will also make an ICS history entry with the same information and note when ATFR was updated.

Note: If a responsible person has been determined to be responsible for only part of a quarter, the amount of that quarter will have to be changed to reflect the amount specified in the decision by Appeals.

- (4) If Appeals does not sustain the original proposed assessment, a new Form 2749 must be printed to reflect the correct TFRP amount based on the decision by Appeals.
- (5) **CPM will be responsible for completing any necessary quick assessment action (IRM 5.7.6.13, Quick and Prompt Assessment Actions) and ensuring the ASER is protected on these Appeals cases.**

5.7.6.12
(04-10-2023)
**Revenue Officer
Assessment Actions**

- (1) The RO will generate and print Form 2749 for each responsible person. The RO will check IDRS to make sure all periods are included on the form.

Note: Do not include any periods for which there is no outstanding trust fund balance.

Note: ATFR programming does not populate balances below \$50.00 on the 2749.

- (2) On Form 2749, the RO will:

- a. Annotate "Bankruptcy" in red on top of the form and provide basic bankruptcy information for cases where the responsible person or the employer has filed bankruptcy.
- b. Verify the correct entity name, address and TIN by using CC INOLE.

Note: Prepare Form 2363, Master File Entity Change, when the information on CC INOLE is not current.

- c. Leave blank the blocks for "Amount of Penalty Assessed," "Assessment Date," and "Identifying Number."

- (3) The RO will prepare Form 3210-A, enter the "2749 to CPM" date onto ATFR, and forward the case file to CPM .

Note: Include Form 2750 if a waiver to extend the statutory period to assess the TFRP was secured from the responsible person. Verify Form 2750 was signed and dated before the ASER expiration by both the responsible person (or authorized representative) and an authorized IRS delegate.

- (4) If levy information was secured for a responsible person, prepare Form 4844, Request for Terminal Action, so the levy information can be loaded to the IDRS levy file. The name, address, and TIN of the responsible person will be included on the Form 4844, and the Remarks section will contain:

- Levy source name and address.
- Ending period of current tax year.
- Current IDRS cycle period.
- Wage Earner Code (P-Primary if responsible person files Form 1040 individually or if the responsible person files a joint Form 1040 and has the primary TIN; S-Secondary if the responsible person files a joint Form 1040 and has the secondary TIN).
- Levy Literal = "RT."

- (5) It is FC's responsibility to ensure all necessary documents, including ATFR and ICS case histories, are contained in the TFRP case file. CPM will not review TFRP files for completeness. See IRM Exhibit 5.7.6-1, TFRP Case File Check Sheet, to assist in case accuracy and completeness and Exhibit 1.4.50-2, Criteria for Review of Completed Work -Trust Fund Recovery Penalty.

5.7.6.13
(03-05-2021)
**Quick and Prompt
Assessment Actions**

- (1) Quick assessment procedures are required when the assessment statute expires within 30 days. TFRP case files must be **received** by CPM prior to day 30 for regular processing.

Note: If a timely appeal is received, do not make a quick assessment. (See IRM 5.7.3.7.2(2), Impact of Letter 1153 on Assessment Statute.) CPM is respon-

sible for making the quick assessments once the appeals determination is final (IRM 5.7.6.11, Controlling and Monitoring Appeals Cases).

- (2) Prompt assessment procedures should be used when collection appears to be at risk and the intention is to proceed with collection action immediately following the period for notice and demand.
- (3) Do not prompt assess the TFRP if:
 - The responsible person will be granted or already has an existing defaulted installment agreement.
 - The assessment will be reported as Currently Not Collectible.
 - There are no distrainable assets or levy sources.
 - No enforcement action is planned.
- (4) Quick or prompt assessment for a TFRP may be made only after the responsible person takes one of the following actions:
 - Fails to respond to the Letter 1153 within the appropriate time period.
 - Completes the appeal process.

Note: Do not treat a signed Form 2751 as a conclusive waiver until the 60 or 75-day restriction period (plus five additional days) expires, as a responsible person may change their mind after signing the waiver. A responsible person's signature on the Form 2751 does not extinguish their appeal rights.

- (5) Quick and prompt assessments may be submitted as facsimile (fax) requests. See IRM 5.7.6.13.1, Fax Requests for Quick or Prompt Assessments. Quick and prompt assessments may also be generated thru the Automated Form 2859 Portal.

Note: Ensure that the information is submitted to the Manual Assessment Unit at the Ogden SB/SE Compliance Center since only that center is staffed to make these types of assessments.

- (6) The initiating office will prepare a separate Form 2859, Request for Quick or Prompt Assessment, for each period to be assessed. If one period on Form 2749 must be manually quick or prompt assessed in order to protect the statute, all periods on the Form 2749 must be quick assessed. Complete Form 2859 with all necessary information, including the initiator's name and address. Also include information as to whether the assessment is "agreed" or "unagreed." Managerial approval of Form 2859 is required. If there is more than one responsible person on the case, all must be manually assessed.

Reminder: Only use "agreed" if the responsible person signed Form 2751.

- (7) For fax assessments, the Ogden Manual Assessment Unit will prepare Form 3552, Prompt Assessment Billing Assembly, and forward it to the initiator. The initiator will immediately deliver or mail certified Parts 3 and 4 of Form 3552, along with Pub 1, to the responsible person. Notice 960 may also be included with Form 3552 to remind the responsible person of the procedures to follow in order to file a claim for refund and request abatement of the liability. Multiple Forms 3552 for the same responsible person may be mailed together. Accounting Control/Services will also forward copies of the Forms 2749 and 3552

to the TFRP unit in Campus Compliance Operations (CCO) for input of the appropriate cross-referencing information and UNLCER information.

- (8) TFRP assessments made by the RO must contain the following in the TFRP case file:

- Form(s) 2859, Request for Quick or Prompt Assessment.
- Form 3210, Document Transmittal, from the campus reflect assessment date and Document Locator Number (DLN).
- Form(s) 3552 with proof of mailing attached.

CPM will return case files missing any of the above assessment documents on Form 5942 , Advisory Reviewer's Report.

- (9) **Send the TFRP case file to CPM where it will be maintained until retired to the Federal Records Center.**

Note: If the case is on ATFR, record and save the date that you mail it to the CPM.

5.7.6.13.1
(04-10-2023)
**Fax Requests for Quick
or Prompt Assessments**

- (1) For fax requests, the initiating office will fax the following information to the Ogden Manual Assessment Unit:

- Form 3210, Document Transmittal, listing each manually assessed period, one per line and in chronological order, from oldest to most current, so the assessment DLN can be written next to the period and faxed back to the originator.
- Parts 1 of Form 2859 (a separate Form 2859 is required for each period).
- Parts 1 of Form 2749.

Note: These forms must be submitted separately for each responsible person to be assessed.

- (2) Upon receipt, the Ogden Manual Assessment Unit will process the request and fax the Form 3210-A to the initiator and provide the 23–C date and the DLN for each period assessed.
- (3) After receiving the documents from the initiator and making the assessment, the Ogden Manual Assessment Unit will send a copy of Form 2749 (with the DLN and 23–C date entered) and Form 3552 to the TFRP unit in CCO for input of the appropriate cross referencing and UNLCE information.

5.7.6.14
(04-10-2023)
**Case File
Documentation**

- (1) A completed TFRP case file will consist of the following documents:

Form/Letter	Description
Form 3210-A	Document Transmittal for Trust Fund Recovery Penalty Case Files
Form 2749	Request for Trust Fund Recovery Penalty Assessment(s)
Form 4183	Recommendation re: Trust Fund Recovery Penalty Assessment Note: Include pages 1-4 (including all original and amended Forms 4183)
Form 4180 (or an explanation as to why the form is not included)	Report of Interview with Individual Relative to Trust Fund Recovery Penalty or Personal Liability for Excise Taxes
Letter 1153 with proof of mailing , if not personally delivered	Proposed Trust Fund Recovery Penalty Notification (file copy must be dated)
Form 2751	Proposed Assessment of Trust Fund Recovery Penalty
Form 6639	Financial Records Summons, and all related documents (notification of quash rights, proof of mailings, etc.)
Case Histories	Corporate ICS balance due and ATFR case history; Including collectibility determination (or reference to history date when collectibility determination was completed if not prepared as a separate document)
Core Documents	Core documentation items per IRM 5.7.4.2.7, Evidence That May Support Recommendations, or an ICS history stating why not secured or included in the case file

- (2) Copies of the following documents, **if** secured or prepared as part of the TFRP investigation, must also be included in the TFRP case file:

Form/Letter	Description
Form 433-A or Form 433-F	Collection Information Statement
Form 2750	Waiver Extending Statutory Period for Assessment of Trust Fund Recovery Penalty
Tax Returns	Photocopies of related Forms 941, Employers Quarterly Federal Tax Return or other applicable employment tax returns
Form 9327	Nonassertion Recommendation of Uncollectible Trust Fund Recovery Penalty or of Uncollectible Personal Liability for Excise Tax
Form 4181	Questionnaire Relating To Federal Trust Fund Tax Matters Of Employer
Letter 1154	Notice of Protest of Trust Fund Recovery Penalty to be Forwarded to Appeals
Letter 1154-M	Letter from GM advising responsible person of new information identified and the results of the investigation.
Letter 1155	Notice of Agreed Trust Fund Recovery Penalty
Form 2859	Request for Quick or Prompt Assessment
Form 2644	Recommendation for Jeopardy/Termination Assessment
Form 3552, Part 5; proof of certified mailing, if not personally delivered, or the responsible person's copies of Form 3552 (Parts 3 and 4)	Prompt Assessment Billing Assembly
Form 3210 with DLN and assessment date from Campus	Document Transmittal

(3) Other information that must be included in the TFRP case file, if it was secured or prepared, includes:

- Protest letters along with the mailing envelope
- Documents submitted with a responsible person's protest
- Copy of letter issued to responsible person by the GM concerning investigation results of new information provided with a protest
- Back-up documentation for collectibility determinations

Note: Adequate supporting documentation must be contained in the file(s) to fully support all recommendations for assertion. If the core documentation items

listed in IRM 5.7.4.2.7, Evidence That May Support Recommendations, are not included in the case file, document the ICS history as to why they are not included and are not necessary.

- (4) Create and maintain a separate TFRP file for each person against whom the TFRP is assessed. If multiple related assessments are made with regard to a single employer, the supporting documentation should be maintained in the key file (Document 9600C) and cross-referenced in the supplemental files (Document 9526). Keep all related TFRP files together whenever possible (see IRM 5.7.610., Transmittal of Case to Appeals, for situations when not all parties are appealing the assessment).

Note: If there are **no** responsible persons being assessed the TFRP on a particular account (for example, **if all** responsible persons were determined to be not collectible), maintain the TFRP files with the balance due case file. Do not submit these files to CPM .

- (5) Include copies of any approved Forms 4183, Forms 9327, as well as any Form 2750 waivers that were secured in the business balance due case file.

5.7.6.15

(04-10-2023)

Retrieving TFRP Case Files

- (1) TFRP case files are maintained by CPM for two years after the assessment. After two years the files are sent to the Federal Records Center where they are destroyed 12 years after assessment;(this allows for the CSED plus 2 years for the responsible person to file a claim for refund.
- (2) Submit requests for TFRP case files to the centralized CPM site in Fresno, CA. If the case file is no longer in the centralized CPM site, CPM will follow the guidelines in IRM 1.15.4.10, Requesting Records from the FRC, for requesting records from the Federal Records Center using Form 2275, Records Request, Charge, and Recharge.

Note: If you are unsure where the assessment was made, contact the centralized CPM site for assistance.

Exhibit 5.7.6-1 (04-10-2023)

TFRP Case File Check Sheet

TFRP CASE FILE CHECK SHEET
(Recommended for all TFRP cases, required for Protest Cases)

Responsible Party	SSN
Business	EIN
Earliest ASED	
FORM 4183 APPROVAL REQUEST – Core Documents – IRM 5.7.4.2.7(1) <input type="checkbox"/> Form 4180 <input type="checkbox"/> Articles of Incorporation <input type="checkbox"/> Bank Signature Cards/PIN Assignment <input type="checkbox"/> Checks or Bank Statements <input type="checkbox"/> If bank records are electronic media, ensure labeled and stapled to inside left of folder	
FORM 9327 – IRM 5.7.5 <input type="checkbox"/> Ensure dates in Section II match dates actions taken and documented in ICS history	
QUICK ASSESSMENT – IRM 5.7.6.13 <input type="checkbox"/> Required when ASED is within 30 days <input type="checkbox"/> Case file must contain the following documents: <input type="checkbox"/> Form(s) 2859, Request for Quick or Prompt Assessment <input type="checkbox"/> Form 3210 from the campus reflecting the assessment date and Document Locator Number (DLN). <input type="checkbox"/> Form(s) 3552 with proof of mailing attached Place documents behind the labeled tab in TFRP case file	
PROTEST CASES – IRM 5.7.6.9 GM Reviewed <input type="checkbox"/> Must use Document 9708 (green Appeals Tabs) <input type="checkbox"/> All necessary core documents are contained in case file tabs. If case was supplemental, copy documents from key file case. <input type="checkbox"/> Protest timely – Determined by Postmark Date if mailed <input type="checkbox"/> Staple envelope or original fax cover sheet to protest document (for timeliness) <input type="checkbox"/> Dated copy of Letters 1153, 1153-W, 1154 and/or 1154-M as applicable <input type="checkbox"/> Completed Form 3210-A to clearly identify case as PROTEST No ex parte communications in file or case histories	
ALL TFRP CASE FILES – IRM 5.7.6.14 <input type="checkbox"/> All items above as applicable <input type="checkbox"/> Printed Form 2749, Form 4183 (pages 1-4, including amended forms) <input type="checkbox"/> Dated copy of Letter 1153 with proof of mailing and receipt stapled to letter. If returned as unclaimed, include unclaimed letter and envelope in TFRP case file. If hand delivered, document ICS/ATFR history with date handed to taxpayer. Do not leave at last known residence. <input type="checkbox"/> Copies of both ICS and ATFR case histories <input type="checkbox"/> Form 6639 Summons and all related documents (quash, proof of mailings, etc.) <input type="checkbox"/> Any other documents gathered during investigation (i.e. CIS, Forms (2751, 2750), Letters (3164A) <input type="checkbox"/> All TFRP case files must have TFRP Case File Tabs	

