



# MANUAL TRANSMITTAL

Department of the Treasury  
Internal Revenue Service

5.7.7

NOVEMBER 6, 2023

## EFFECTIVE DATE

(11-06-2023)

## PURPOSE

- (1) This transmits revised IRM 5.7.7, Trust Fund Compliance, Payment Application and Refund Claims.

## MATERIAL CHANGES

- (1) IRM 5.7.7 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 5.7.7.1	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 5.7.7.2	Renumbered from IRM 5.7.7.1.1.
IRM 5.7.7.3	Renumbered from IRM 5.7.7.2.
IRM 5.7.7.4	Renumbered from IRM 5.7.7.3.
IRM 5.7.7.5	Renumbered from IRM 5.7.7.4.
IRM 5.7.7.5(2)	Added a note addressing the impact of an offset credit in the payment requirements.
IRM 5.7.7.5.1	Changed the subsection title and clarified actions taken by CEASO when receiving a claim for refund.
IRM 5.7.7.5.6(3)	Clarified letters to be issued when denying informal claims.
IRM 5.7.7.6	Renumbered from IRM 5.7.7.5 and changed the IRM title for clarity's sake.
IRM 5.7.7.6.1(4)	Updated guidance on where to send Form 3870.
Throughout	Replaced all references to "Advisory" with "Civil Enforcement Advice and Support Operations" (CEASO).

<b>IRM</b>	<b>Change</b>
Throughout	Replaced the term “parties” with “persons” to meet the definition of “person” in IRC 6672.
Throughout	Grammar and syntax corrections made throughout this section.
Throughout	Added inclusive pronouns.
Throughout	Replaced the term “Service” for “IRS.”
Throughout	Editorial changes were made throughout this section to add clarity and to update, correct, or add citations.
Throughout	Added internal and external links for reference and updated IRM links references.

#### **EFFECT ON OTHER DOCUMENTS**

This material supersedes IRM 5.7.7 dated August 2, 2015.

#### **AUDIENCE**

Small Business/Self-Employed Collection Employees

Rocco A. Steco,  
Acting Director, Collection Policy

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5.7.7

Payment Application and Refund Claims

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## 5.7.7.1 (11-06-2023) Program Scope and Objectives

- (1) **Purpose:** This IRM section provides instructions for Collection employees when applying payments and processing refund claims in Trust Fund Recovery Penalty (TFRP) cases.
  - (2) **Audience:** The primary users of this IRM are Field Collection revenue officers and Civil Enforcement Advice and Support Operations (CEASO) advisors.
  - (3) **Policy Owner:** Director, Collection Policy, Small Business/Sell-Employed Division (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.
    - Campus Collection Operation (CCO)
  - (6) **Program Goals:** The Trust Fund Recovery Penalty (TFRP) is based on IRC 6672. It serves three purposes:
    - encourages prompt payment of income and employment taxes withheld from employees and other collected taxes;
    - makes the responsible person liable for 100% of the unpaid trust fund taxes; and
    - facilitates collection of trust fund taxes from secondary sources.
- Note:** By following the procedures in this IRM, users will be able to apply payments and process claims for refund in Trust Fund Recovery Penalty cases.
- (7) **Contact Information:** Recommendations and suggested changes to this IRM should be emailed to the Content Product Owner. The owner is indicated 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>.

## 5.7.7.1.1 (11-06-2023) Background

- (1) The Trust Fund Recovery Penalty (TFRP) is a penalty imposed by IRC 6672 against any individual or business entity required to collect, account for, and pay over taxes held in trust, who willfully fails to perform any of these activities. It facilitates the collection of tax and enhances voluntary compliance. The TFRP serves as an additional means of collecting unpaid trust fund taxes when taxes are not fully collectible from the company/business that failed to pay the withheld taxes. The penalty is equal to the total amount of tax evaded, not collected, or not accounted for and paid over.

## 5.7.7.1.2 (11-06-2023) 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 6331, Levy And Distraint.
- (4) IRC 6511, Limitations On Credit Or Refund.

- (5) IRC 6672, Failure To Collect And Pay Over Tax, Or Attempt To Evade Or Defeat Tax.
- (6) IRC 7602, Examination Of Books And Witnesses.
- (7) IRC 7609, Special Procedures For Third-Party Summonses.
- (8) Rev. Proc. 2012-18, Ex Parte Communications Between Appeals and Other Internal Revenue IRS Employees.

5.7.7.1.3  
(11-06-2023)  
**Responsibilities**

- (1) The Director, Collection Policy, is the executive responsible for the policies and procedures utilized by Collection personnel.
- (2) Field Collection group managers (GM) and revenue officers (RO) are responsible for ensuring compliance with the guidance and procedures described in this IRM.
- (3) Civil Enforcement Advice and Support Operations (CEASO) managers and advisors are responsible for ensuring compliance with the guidance and procedures described in this IRM.
- (4) 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.

5.7.7.1.4  
(11-06-2023)  
**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 GMs assess the timeliness and accuracy of TFRP case actions. Collection Policy does periodic program reviews to identify trends and opportunities to improve timely and effective TFRP case actions.

5.7.7.1.5  
(11-06-2023)  
**Program Controls**

- (1) ATFR tracks and records TFRP assessment actions and history. Field Collection 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) GMs approve TFRP-related case activities.
- (4) 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.

5.7.7.1.6  
(11-06-2023)  
**Acronyms**

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

Acronym	Definition
ACS	Automated Collection System

Acronym	Definition
ATFR	Automated Trust Fund Recovery Penalty Program
BMF	Business Master File
CCO	Campus Collection Operation
CEASO	Civil Enforcement Advice and Support Operations
DPC	Designated Payment Code
EQ	Embedded Quality
FC	Field Collection
FTM	Fast Track Mediation
ICS	Integrated Collection System
IDRS	Integrated Data Retrieval System
IMF	Individual Master File
IRC	Internal Revenue Code
IRM	Internal Revenue Manual
MFT	Master File Tax
NF	Non-Field
OI	Other Investigation
OIC	Offer in Compromise
RO	Revenue Officer
SB/SE	Small Business/Self Employed
TBOR	Taxpayer Bill of Rights
TC	Transaction Code
TIN	Taxpayer Identification Number
TFRP	Trust Fund Recovery Penalty

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

5.7.7.1.7  
(11-06-2023)

#### Related Resources

- (1) IRM resources;
- IRM 1.2.1, Servicewide Policy Statements
  - IRM 5.1.22, Disclosure
  - IRM 5.6.1, Collateral Agreements and Security Type Collateral
  - IRM 5.6.2, Maintenance
  - IRM 5.7.4, Investigation and Recommendation of the TFRP
  - IRM 5.7.6, Trust Fund Penalty Assessment Action
  - IRM 5.14.7, BMF Installment Agreements

- IRM 5.19.14, Trust Fund Recovery Penalty (TFRP)
- IRM 25.5.6, Summonses on Third-Party Witnesses
- IRM 25.27.1, Third-Party Contact Program
- 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, Policy Statement 1-236, Fairness and Integrity in Enforcement Selection.

## 5.7.7.2

(11-06-2023)

**Installment Agreements on the BMF Liability after TFRP Assessed**

- (1) Even after assessment of the TFRP, ROs may still secure an installment agreement for an in-business BMF trust fund taxpayer. Once the agreement has been approved, the RO and the GM will give consideration to withholding collection on the TFRP balance due accounts.
- (2) Determine the potential success of the installment agreement (are there income and assets of the in-business taxpayer that could full pay the liability) and consider:
  - a. What is the collection potential of the TFRP balance due accounts?
  - b. Is collection of the TFRP balance due accounts in jeopardy?
  - c. Will a Notice of Federal Tax Lien be filed?
  - d. If no lien will be filed, will the person held responsible provide a bond, other collateral, or adequate protection (See IRM 5.6.1, Collateral Agreements and Security Type Collateral)?

**Example:** Adequate protection includes otherwise unencumbered assets of the business currently secured by a federal tax lien for the same periods and having sufficient equity from which the BMF tax (non-trust and trust fund) can be paid in full.

- (3) When the decision is made to pursue collection of the TFRP, the RO will follow the procedures in IRM 5.14.7.4.1(8), Trust Fund Recovery Penalties and Installment Agreements.

## 5.7.7.3

(04-13-2006)

**Pre-Assessment Payment**

- (1) A payment received on a responsible person's account prior to assessment of the TFRP will be applied using Form 3244, Payment Posting Voucher:
  - a. Enter IRC 6672/55 in the Form Number/MFT block.
  - b. Enter the dollar amount of the payment next to the TC 640 "Advance Payment on Deficiency" block.
  - c. Enter a designated payment code (DPC) with all TC 640 payments.

**Note:** DPC information can be found in Document 6209 at: <http://serp.enterprise.irs.gov/content/6209/6209.html>, Section 11(10), Collection. DPC 99 is normally used; however, use DPC 10 if the payment is for a manually monitored pre-assessed installment agreement, or use another appropriate code based on the type of payment being made.

- d. Enter in the Remarks section "Trust Fund Recovery Penalty Pending" followed by the name and TIN of the business and the approximate assessment date so the payment can be properly identified.



- e. Submit the payment with the posting voucher on Form 795-A, Remittance and Return Report.
- f. Retain a copy of Form 3244 in the TFRP case file.

5.7.7.4  
(11-06-2023)  
**Cross-Referencing of Payments Made on Employer Balance Due and TFRP Accounts**

- (1) After the TFRP has been assessed, payments and/or credits may be applied to the underlying trust fund liability, as well as to the TFRP assessment(s).
- (2) Campus Collection Operation (CCO) is responsible for cross-referencing already posted payments and credits among related BMF and TFRP accounts, as well as computing and cross-referencing interest on TFRP accounts. IRM 5.19.14, Trust Fund Recovery Penalty (TFRP), contains the operating instructions for these activities. CCO does not decide where to apply the incoming remittances.
- (3) Unless the underlying trust fund taxpayer also fully paid interest, the TFRP taxpayer will still be liable for the interest on the TFRP assessment.

5.7.7.4.1  
(07-30-2010)  
**Disclosure of TFRP Payment Information**

- (1) Section 902 of the Taxpayer Bill of Rights 2 (TBOR 2) expanded IRC 6103(e) to add subsection (e)(9) which provides for certain disclosures to persons who have been assessed the TFRP pursuant to IRC 6672. IRC 6103(e)(9) provides for disclosure to each person who has been assessed the TFRP, certain limited information regarding other persons assessed the penalty for the same underlying tax. See IRM 5.1.22.5, Disclosure of Trust Fund Recovery Penalty Payment Information, for additional information on what information can and cannot be disclosed, as well as the method of disclosure.

5.7.7.5  
(11-06-2023)  
**Claim for Refund**

- (1) The taxpayer should submit a claim for refund involving a TFRP on Form 843, Claim for Refund and Request for Abatement. See IRM 5.7.7.5.2 below, for information on the additional actions the taxpayer must take and the required time frames in order for the IRS to be required to withhold collection action. The taxpayer must submit a separate Form 843 for each period the taxpayer wants considered for refund and/or abatement.
- (2) In order to file a claim for refund of the TFRP assessment, for each applicable tax period the taxpayer must pay the portion of penalty attributable to either:
  - One employee if the TFRP is based on employment taxes
  - One transaction if the claim relates to a TFRP for excise taxes

**Note:** If the taxpayer files suit the government will place the unpaid portion of the TFRP before the court by means of counterclaim.

**Note:** Credit offsets are defined as payments and may be used to satisfy the payment requirement. However, taxpayers are still required to have one payment per quarter. Therefore, taxpayers must make a payment when filing a Form 843 for any quarter for which they do not have a payment or credit offset within two years of the filing of the Form 843.

- (3) Generally, the IRS will consider TFRP claims for refund (and for related abatement of unpaid TFRP portions) if they are filed within **two years** after the date the required payment was made.
- (4) The CEASO office where the claimant resides should work the claim.

If:	Then:
The claimant does not reside in a location covered by the CEASO office where the claim was submitted	Use Form 3210, Document Transmittal, to forward the Form 843, the TFRP files, as well as any associated appeals or other files to the CEASO office where the claimant resides.
The Form 843 claim is received in the office where the claimant resides, but the TFRP was not assessed in that office	Contact the CEASO group in the originating office to have them transmit the TFRP files as well as any other needed files or documentation.

(5) If the RO receives a Form 843, the RO will:

- Document receipt of the Form 843 in the ICS history.
- Date stamp Form 843 and attach the envelope if received via mail.
- Forward Form 843 to CEASO on Form 3210, Document Transmittal.

**Note:** As part of Collection's ordinary consideration of a case, the RO may make history entries in ICS or ATFR regarding the original basis for TFRP assessment as the Form 843 has not been denied and no appeal has been filed.

5.7.7.5.1  
(11-06-2023)  
**CEASO Actions**

- (1) Date stamp Form 843 upon receipt and complete the initial review of the claim within 30 days of receipt. Form 843 claims must be processed promptly since the taxpayer may file suit if the claim is not acted upon within six months of filing. CEASO should issue interim status letters as needed to avoid unnecessary litigation. When circumstances dictate, the employee should use problem solving and negotiation techniques, and in so doing consider the applicant's perspective when analyzing the claim.
- (2) Open an ICS NF Other Investigation (OI) Action Requested 172 - Claim for Refund, to control the claim no later than 7 calendar days of receipt in the group. Check ICS for any prior claims or inquiries, review the closed files for any prior claims and document all actions taken on the claim in the ICS history.

**Note:** All actions taken on the claim will be documented in the ICS history including, but not limited to:

- Results of research and reviews
- Dates any correspondence was initiated to the claimant
- Deadlines established for the claimant, that the claimant was advised of consequences and that follow-up deadlines were established
- Determinations and reasons for the determinations

**Note:** If a prior claim was rejected and the current claim provides no additional information, notify the claimant in writing that the new claim cannot be considered. Explain that the right to bring suit was lost if not exercised in a timely fashion after denial of the earlier claim. Contact Area Counsel for any

questionable issues involving the taxpayer's right to bring suit. Update the ICS history with the date the claimant was notified and the reason(s) for not being considered.

- (3) Review transcripts to identify payments or credits made within **two years** of filing of Form 843; these are the **only** amounts that may be considered for refund (see IRC 6511(a)).

**Note:** If the taxpayer is determined to be not responsible for the TFRP, payments made beyond this two-year period may not be refunded to the taxpayer but must be transferred to excess collections (See IRM 5.7.7.6.1 below).

- (4) Review Form 843 for processability and to identify the issues involved. Generally, a Form 843 claim is processable if the taxpayer and tax periods can be identified, the required payment has been made, and there is some type of explanation provided. If the form is not processable:
  - a. Address the basic issues of the case, even if the claim is not processable.
  - b. Prepare a letter to the claimant outlining and explaining the defects, needed corrections, and the additional information needed.
  - c. Include a reasonable time frame for response (generally 30 days).
  - d. Close the control with no further action if no response is received.

**Note:** In some cases, an incomplete claim may be considered a valid claim. In such cases, issue a formal denial (IRM 5.7.7.5.4, Claim Denied - IRC 6672(c) Not Applicable, and IRM 5.7.7.5.5, Claim Denied - IRC 6672(c) Applicable) advising the taxpayer of their right to file suit. Consult Area Counsel to resolve uncertainties as to the proper response.

- (5) Retrieve the TFRP file(s) and review them to determine:
  - If any basic procedural defects exist
  - If sufficient file information exists to evaluate and respond to the issues raised
  - Whether taxpayer rights have been protected, including those provided in The Taxpayer Bill of Rights, Pub 1, Your Rights as a Taxpayer, IRC 7602(c), IRM 5.7.4.2.5, Third-Party Interviews and Third-Party Contact Considerations, IRC 7609(a), IRM 25.5.6.4.1, Procedures for Summonses Issued to Investigate Liabilities for the Trust Fund Recovery Penalty, and actions were documented in ICS and/or ATFR.

**Note:** If the TFRP balance due or the employer balance due accounts are assigned to an RO, identify that person and coordinate all actions and determinations with them.

- (6) If the Independent Office of Appeals (Appeals) had already made a determination in regard to the TFRP at issue (whether in the form of a timely protest in response to Letter 1153, Proposed Trust Fund Recovery Penalty Notification, claim, doubt as to liability offer in compromise, etc.), neither CEASO nor field collection employees can reverse the prior determination made by Appeals. Only Appeals can reverse such a determination. Therefore, the claim will be forwarded to Appeals without consideration by CEASO.

- a. If Appeals determines during initial review that the issue raised is the same as in the previous Appeals determination, Appeals will retain jurisdiction of the claim.
  - b. If Appeals determines during initial review the issue raised in the new claim is different from the issue raised in the previous Appeals determination, Appeals will close the claim as a premature referral and return it to CEASO.
  - c. CEASO will consider the claim, addressing only new issues, and make a determination. CEASO has the authority to make a claim determination for new issues raised only after Appeals has confirmed there has been no prior Appeals determination on the specific issue(s) raised. CEASO's determination is not considered a reversal of Appeals prior determination as it pertains to a new issue(s).
- (7) When CEASO determines that the TFRP cannot be substantiated, CEASO should follow the procedures in IRM 5.7.7.5.3 below, for accepting the claim and preparing Form 3870, Request for Adjustment, to abate the assessment. Consult Area Counsel if there are questions over the validity of the assessment.
- (8) Possible actions by CEASO include:
- Acceptance of the claim
  - Use of Fast Track Mediation (IRM 5.7.6.4, Appealing the Proposed Assessment)
  - Denial of the claim
  - Referral to Appeals (may be interim or final action)
- (9) When a determination is made on the claim (formal or informal), advise the taxpayer in the closing correspondence of any funds moved to excess collections due to IRC 6511(a).
- 5.7.7.5.1.1  
(04-19-2011)  
**Incomplete TFRP Files**
- (1) If the information in the file is not sufficient to support assertion and/or if any procedural defects are identified, the CEASO employee will determine the need for field group assistance and, if necessary, issue a Courtesy Investigation no later than 14 calendar days after completion of the initial review to secure additional documentation.

**Note:** Some procedural defects may invalidate the assessment. Consult Area Counsel if there are questions over the validity of the assessment.

- (2) Identify the specific additional documentation and/or corrective actions needed. Transmit all TFRP files with the Courtesy Investigation via Form 3210 and set a reasonable deadline for response. If the specified deadline is missed, the CEASO employee will initiate a follow-up action no later than 10 calendar days of the missed deadline date.
- (3) Send an interim response to the claimant.
- (4) If the TFRP file(s) cannot be located and/or reconstructed, consult with Counsel to make a determination as to whether the claim should be accepted (IRM 5.7.7.5.3) or if the claim should be denied (IRM 5.7.7.5.4, and IRM 5.7.7.5.5) based upon the hazards of litigation for defending the IRS's position if the taxpayer later files suit.

**Note:** The IRS is not required to concede a case solely because the case file cannot be located or has been destroyed. If this situation arises, consult with local counsel in deciding whether or not to concede the case.

5.7.7.5.1.2  
(08-02-2013)

## Referral to Appeals and Fast Track Mediation (FTM)

- (1) If CEASO does not fully abate the TFRP, determine if a referral to Appeals is appropriate.

**Reminder:** Neither CEASO nor field collection employees can reverse a prior determination made by Appeals. Only Appeals can reverse such a determination.

- (2) Situations where referral to Appeals may be appropriate include the following:

- Appeals has already made a determination on the case.
- It is not clear the claimant was given adequate access to the appeal process (or if it is clear they did not), and a determination by Appeals would be beneficial to the government's position.
- Other situations in which it is deemed advisable, generally to ensure or strengthen the Government's position in potential litigation.

- (3) If referral to Appeals is appropriate, the RO will:

- a. Update the TFRP file.
- b. Prepare and mail Letter 1154, Notice of Protest of Trust Fund Recovery Penalty to be Forwarded to Appeals, to the claimant.
- c. Return the files to CEASO to be forwarded to Appeals.

- (4) Advisors should consider FTM as an option since taxpayers may also use the FTM process for Form 843 claims that are being rejected. The advisor may advise the taxpayer of FTM at any time during the review process. If FTM has not been discussed prior to issuance of the rejection letter (see IRM 5.7.7.5.4 and 5.7.7.5.5), include Pub 3605, Fast Track Mediation - A Process for Prompt Resolution of Tax Issues, with the letter denying the claim.

**Note:** Remind taxpayers that even if the IRS agrees to use FTM, the time frames for formally appealing the denial and filing suit still apply.

- (5) 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.

5.7.7.5.2  
(07-30-2010)  
**Withholding Collection — IRC 6672(c)**

- (1) Under IRC section 6672(c), the IRS may not levy or file a suit to collect the remainder of the TFRP if the taxpayer takes all three following actions within 30 days after notice and demand for payment:

- Makes the required payment (IRM 5.7.7.5).
- Submits Form 843.

- Furnishes a bond for an amount equal to 1 1/2 times the unpaid portion of the TFRP. See IRM 5.6.1, Collateral Agreements and Security Type Collateral.

**Note:** When collection of the TFRP is in jeopardy, the IRS may take immediate collection action, even if the taxpayer complies with the provisions of Section 6672(c).

- (2) Request input of TC 520, Closing Code 82, to delay collection until the final resolution of the court proceedings and the taxpayer's claim for refund. If the taxpayer's claim is later denied, the IRS must continue to delay levy action and refrain from initiating proceedings in court for collection if the taxpayer files suit within 30 days of the date of the letter denying their claim. If the taxpayer fails to file suit within this time period, the IRS may take action to apply the bond to the liability. See IRM 5.6.2, Maintenance.
- (3) During the pendency of a taxpayer's TFRP refund suit for tax periods beginning after December 31, 1998, IRC 6331(i) generally requires IRS to refrain from issuing new levies to collect the remainder of the taxpayer's unpaid TFRP amounts that are at issue in the suit. See IRM 1.2.1.6.4, Policy Statement 5-16, Forbearance when reasonable doubt exists that assessment is correct.

5.7.7.5.3  
(08-05-2015)  
**Claim Accepted**

- (1) CEASO will take the actions below If the claim is allowed. CEASO will take actions a, b, and c no later than 14 calendar days of the CEASO determination that the claim is allowed.
  - a. Notify the taxpayer in writing (Letter 3782, Letter Accepting TFRP Refund Claim). If payments or credits not made within two years of filing of Form 843 are identified, these amounts may not be considered for refund (See IRC 6511(a)). In this circumstance, prepare a letter to notify the taxpayer of any funds moved to excess collections due to IRC 6511(a).
  - b. Initiate action to release bond (IRM 5.6.1, Collateral Agreements and Security Type Collateral) to the taxpayer if taxpayer complied with the provisions of IRC 6672(c). (See IRM 5.7.7.5.2).
  - c. Prepare Form 3870, to adjust the TFRP account accordingly and forward to CCO for abatement action.
  - d. Close the ICS NF OI control once Form 3870 is correctly processed and properly posted to IDRS.
  - e. Print out a copy of the ICS history and include in the TFRP file along with the claim and copy of the Form 3870.
  - f. Process the TFRP file based on the records retention schedule. (Refer to Document 12990, Records Control Schedules (RCS) 29 - Collection).

5.7.7.5.4  
(04-19-2011)  
**Claim Denied — IRC  
6672(c) Not Applicable**

- (1) CEASO will take the actions below if the claim is denied and the taxpayer did not take the actions outlined in IRM 5.7.7.5.2. CEASO will take actions a, b, and c no later than 14 calendar days of the CEASO determination that the claim is denied.
  - a. Mail certified Letter 3784, Letter Denying TFRP Refund Claim - IRC 6672(c) Not Applicable, to indicate disallowance of the claim and to notify the taxpayer of the 2-year period to file a suit. Enclose Pub 3605 if appropriate (see IRM 5.7.7.5.1.2). Taxpayers should be instructed to mail appeals of denied claims to CEASO.



- b. Prepare and submit Form 4844, Request for Terminal Action, for input of TC 290 for \$0.00 (use blocking series 98) to establish a record of the claim denial on the taxpayer's account for future reference. Attach a copy of the denial letter to the input document.
- c. Establish a 60-day follow-up on ICS, pending receipt of an appeal.

**Reminder:** Letter 3784 only grants the taxpayer a 30-day period to request an Appeals conference. The 60-day ICS follow-up allows the IRS time to receive and process all timely mailed appeals.

- d. At the expiration of the 60 days, if a timely appeal has not been received, close the NF OI on ICS.
- e. Print out a copy of the ICS history and include in the TFRP file along with the claim and denial documents.
- f. Process the TFRP file based on the records retention schedule.

(2) CEASO will take the actions below if the claim is denied and the taxpayer submits a timely request for appeal:

- Document receipt of the appeal request in the ICS history with a statement that the taxpayer appeal was received on (date), and the case is being forwarded for managerial review prior to transmission to Appeals.
- Issue a letter advising the taxpayer that the case is being forwarded to Appeals.
- Forward the TFRP case file and Form 843 to Appeals on Form 3210.
- Maintain the NF OI to monitor for the final Appeals decision.

5.7.7.5.5  
(08-02-2013)  
**Claim Denied — IRC  
6672(c) Applicable**

(1) CEASO will take the actions below if the claim is denied and the taxpayer took the actions outlined in IRM 5.7.7.5.2. CEASO will take actions a and b no later than 14 calendar days of the CEASO determination that the claim is denied.

- a. Mail certified Letter 3783, Letter Denying TFRP Refund Claim - IRC 6672(c) Applicable, signed by the appropriate individual, to indicate disallowance of the claim and to notify the taxpayer of the 30-day period in which the taxpayer must bring suit under IRC 6672(c)(2) if they want to stop collection. Enclose Pub 3605 if appropriate. (See IRM 5.7.7.5.1.2). Taxpayers should be instructed to mail appeals of denied claims to CEASO.
- b. Establish a 30-day hold file and monitor the file to determine if a suit is filed timely (contact Area Counsel, if necessary, to make this determination).
- c. Follow the procedures in IRM 5.7.7.5.5(2) below, if the suit is not filed timely.
- d. If the suit is filed timely, the TC 520 will remain on the account to delay collection until the final resolution of the court proceedings and the taxpayer's claim for refund.
- e. Close the control on the inventory database at the end of the 30-day hold period.
- f. Associate the closed control file with the TFRP file. Maintain the TFRP file in the CEASO office for at least 45 days following issuance of the denial letter. If the taxpayer later files an appeal, then the TFRP file can more easily be submitted to Appeals for their review.

(2) If the suit is not filed timely, the bond, or other collateral, will be converted to satisfy the TFRP liability in accordance with the agreement. Request reversal

of the TC 520 and process the bond or other collateral in accordance with procedures in IRM 5.6.2, Maintenance. Do not assign the balance due accounts to the field.

- (3) CEASO will take the actions below if the claim is denied and the taxpayer submits a timely request for appeal:
- Document receipt of the appeal request in the ICS history with a statement that the taxpayer appeal was received on (date), and the case is being forwarded for managerial review prior to transmission to Appeals.
  - Issue Letter 1154 advising the taxpayer that the case is being forwarded to Appeals.
  - Forward the TFRP case file and Form 843 to Appeals on Form 3210.
  - Maintain the NF OI to monitor for the final Appeals decision.

**Reminder:** Due to ex parte communication rules, CEASO should not make any additional commentary in the ICS history regarding the merits of the appeal and should not prepare any memorandum discussing the issues raised in the appeal.

5.7.7.5.6  
(11-06-2023)  
**Informal Claims for  
Refund or Abatement**

- (1) ROs may process claims that are not submitted on Form 843. If the taxpayer submits a letter requesting refund and the letter contains the required elements from Form 843, contact Area Counsel to determine if the letter should be considered a valid informal claim.

**Note:** ROs should research ATFR to determine if Appeals has previously made a determination in regard to the TFRP after receipt of a Letter 1153 protest. If ATFR indicates a prior determination was made, neither CEASO nor Field Collection employees can reverse Appeals' prior determination. Forward the informal claim to CEASO. CEASO will then forward the claim to Appeals.

- (2) If you allow the claim, request the appropriate adjustment or abatement using Form 3870. Submit Form 3870 to the TFRP unit in CCO for input. These adjustments or abatements may not be input in the local offices.
- (3) If you propose to deny the claim, prepare Letter 3784 (See IRM 5.7.7.5.4) or Letter 3783 (See IRM 5.7.7.5.5) to the taxpayer advising:
- The proposed action
  - The reason(s) for disallowance
  - The available options (OIC, filing Form 843 etc.)

5.7.7.6  
(04-19-2011)  
**Abatements and  
Adjustments of a TFRP  
Assessment**

- (1) Request Abatement of TFRP assessments in any of the following circumstances:
- a. Collection determines all or a portion of the liability is not owed.
  - b. Appeals decides all or part of the liability is not owed and should be conceded.
  - c. Federal court judgment is issued in favor of the taxpayer and the government decides not to appeal (Assessments of other responsible persons should not be abated based on this judgment).



- (2) Only CEASO is authorized to submit abatements on cases outlined in b) and c) above. CEASO employees will submit abatement requests no later than 14 calendar days of notification that abatement is appropriate.
- (3) Request Adjustment of the TFRP assessment in any of the following circumstances:
  - a. Taxes were collected from the underlying employer by payment or refund offset.
  - b. Payment of the TFRP has been made by one or more related TFRP taxpayers.
  - c. The IRS has accepted an employer's offer in compromise of trust fund taxes for which abatement of an assessed TFRP is a condition.
- (4) Request abatements and adjustments on Form 3870. Responsibility for preparation of Form 3870 is determined as follows:

If the case is assigned to. . .	Then. . .
FC (balance due or other investigation) and the TFRP will be abated or adjusted	the RO assigned the case should prepare the Form 3870.
ACS and an adjustment is to be made, or abatement of TFRP does not involve a question as to responsibility and/or willfulness	ACS should prepare Form 3870.
ACS and abatement of TFRP involves a question as to responsibility and/or willfulness	forward case to FC or CEASO for consideration and preparation of Form 3870
ACS and involves payment/credit posted to be adjusted	ACS should prepare Form 3870 after contacting CEASO to determine the amount and quarters of liability to be adjusted for an underlying trust fund liability.
neither FC nor ACS	CEASO will prepare and submit Form 3870.

## 5.7.7.6.1 (11-06-2023) **Preparation of Form 3870 for an Adjustment or Abatement**

- (1) Prior to completing Form 3870 for an adjustment, carefully analyze the BMF account and all related IMF accounts to ensure the adjustment is necessary. Request Forms 3870 at the same time for all responsible persons. Interest will be due on the IMF accounts unless the underlying BMF account already fully paid on the interest . See IRM 5.19.14.3.7, Computing and Cross-Referencing Interest. Since most credits will be cross-referenced systemically, do not request any adjustment for credits that have been applied to an account for less than 60 days. All TCs 241 with credit reference numbers 699 or 697 as well as TCs 538 on the BMF account need to be accurately analyzed to determine if an abatement is necessary. Check UNLCER for the BMF and all related IMF accounts since the responsible persons are not always assessed the same amount for the same quarters.

- Credit reference number 699 will be reflected on all TCs 241 input on an IMF account for payments made by any responsible person.
- Credit reference number 697 will be reflected on all TCs 241 input on an IMF account for payments made by the related BMF account.
- Transaction code 538 will be input on the BMF account to reflect payments made by any of the responsible persons.

(2) Prepare Form 3870 for an abatement or adjustments as follows:

- Complete all information in line items 1–10 as stated.  
**Note:** Joint name lines do not apply to TFRP accounts.
- Enter line item 11- Reason for Adjustment: **Requested action:** Abate <\$ amount applicable> of TC 240, reference number 618, dated <enter assessed date>, or Adjust <\$ amount applicable> of TC 240, reference number 618, dated <enter assessed date> and assessed for <assessed amount of TC 240>.

**Reminder:** An **abatement** is requested if the individual is determined to be not responsible for all or a portion of the TFRP; an **adjustment** is requested when the balance due needs to be updated based on payments made by other responsible persons or the employer (IRM 5.7.7.6).

- **Justification:** For abatements, the reasons specified must address responsibility and willfulness. The statement “The taxpayer is not liable” is not sufficient justification.

**Reminder:** Abatements of TFRP accounts may not be based on reasonable cause.

- Complete line item 13, including the preparer’s phone number.
- Submit for approval by the preparer’s immediate manager (line item 14).
- Attach an account transcript (and UNLCER print) for all applicable periods and all related accounts. The Campuses need a corrected list of periods adjusted and the resulting trust fund amounts so they can correct UNLCER and the Memo Money Amounts. For abatement requests, identify the payments to be refunded to the taxpayer and those that must be transferred to excess collections. Under IRC 6511(a), only payments made **within 2 years** of filing the Form 843 claim for abatement may be refunded to the taxpayer. Indicate if any collection fees, bad check fees, etc. should be abated. Be sure to include instructions to reverse any applicable TCs 241 with reference numbers 699 or 697 on other responsible persons or any TCs 538 on the corporate account based on the adjustment you are requesting.
- Send to the CCO TFRP unit via Form 3210 or another suitable transmittal.

**Reminder:** An e-mail option for Form 3870 TFRP adjustments is available through ICS templates.

**Note:** Request release of lien when applicable.

(3) If an RO prepares Form 3870, forward to CEASO:

- a. Copy of Form 3870
- b. Revised TFRP computation for association with the TFRP administrative file

- (4) In order to ensure the appropriate adjustments are made to UNLCER and the appropriate cross-referencing takes place, only the TFRP unit in the compliance center can input Form 3870 TFRP adjustments. Do not send Forms 3870 to CCP for processing. Submit Form 3870 based on the corporate entity's state as indicated at: <https://irs.gov.sharepoint.com/sites/ETD-KMT-KB027>.

## 5.7.7.6.2 (07-30-2010) **Reversal of TFRP Adjustments**

- (1) Use the following procedures on reversal of prior TFRP adjustments for:
  - TFRP payments and credits from related TFRP accounts
  - Compromise of Employment Excise and Partnership Tax Liabilities
- (2) CEASO will prepare:
  - Another Form 3870
  - Memorandum of authority which requests a reversal of the adjustment and refers to the related Form 3870

If. . .	Then. . .
the account is on UNLCER	prepare Form 3870 using UNLCER
the account is not on UNLCER	contact compliance center TFRP Unit for the information needed to prepare Form 3870

- (3) Manual coordination procedures must be used to assure over collection does not occur. The employee posting a payment or credit to a balance due account must notify all other employees to whom a related case is assigned.
- (4) If one of the accounts is fully satisfied, other responsible units will be so advised. Form 3870 and a memorandum of authority will be prepared to adjust the account(s). The Form 3870 and memorandum are to be forwarded to the compliance center.
- (5) For those cases adjusted with TC 241, reference number 699, reversal of adjustments will be accomplished as follows:
  - a. CEASO will advise CCO by Form 3870 and memorandum of authority to reverse adjustment of the assessment. In the case of a reversal related to the refund suit, a suspense file should be opened so the balance due account can be assigned to CEASO.
  - b. Instruct CCO to post TC 240, reference number 699, with an identical date and amount for each TC 241 reference number 699, posted to the module. Include dates and amounts of transactions to be reversed.

