APPEALS

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

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Affected IRM: See Below

MEMORANDUM FOR APPEALS EMPLOYEES

FROM: Jennifer L. Vozne */s/ Jennifer L. Vozne*
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SUBJECT: Bipartisan Budget Act of 2015[1] – Docketed Cases

This memorandum provides guidance on the Bipartisan Budget Act of 2015 (BBA) until IRM 8.19 is revised.[2] Please ensure that this information is distributed to all affected employees within your organization.

Purpose: This memorandum provides interim guidance to Appeals employees on docketed case procedures, including the following:

- Appeals TEFRA Team (ATT) and Technical Guidance (TG) referrals;
- Tax Court rules on BBA partnership proceedings;
- Tax Computation Specialist (TCS) assistance;
- Tried Cases and Counsel Settlements;
- Tax Court Decision Appealed and Final Decision from Appeal; and,
- Department of Justice (DOJ) cases.

Background/Source(s) of Authority: Section 1101 of the Bipartisan Budget Act of 2015 (BBA) as amended by the Protecting Americans from Tax Hikes Act of 2015 (PATH Act) and sections 201 through 207 of the Tax Technical Corrections Act of 2018 (TTCA) repealed TEFRA partnership procedures and electing large partnership provisions and replaced them with an entirely new centralized partnership audit regime. Previously, tax, penalty, and interest adjustments were passed through to the partners. Now, the new partnership audit regime generally provides for determination of adjustments, assessment, and collection of tax attributable to such adjustments at the partnership level.

This Interim Guidance supplements previously issued BBA guidance, AP-08-0319-0005 and AP-08-1019-0013.

[1] Bipartisan Budget Act of 2015, Pub. L. No. 114-74, 129 Stat. 584.
[2] IRM 8.19. Appeals Pass-Through Entity Handbook.

Procedural Change: Appeals Technical Guidance and ATT have prepared these IRM provisions as part of IRM 8.19 for BBA docketed cases. See AP-08-1019-0013.

Effect on Other Documents: This guidance will be incorporated in IRM 8.19 within two years from the date of this memorandum.

Affected IRMs: 8.19.14, 8.20.5, 8.20.6, and 8.20.7.

Effective Date: This guidance is effective as of the date of this memorandum.

Contact: If you have questions or need additional information, please contact James Boulukos or Michael McLane, TG Technical Specialist, or Jon Wadsworth, Appeals TEFRA Team.

Attachment:
IRM 8.19.14.7 - Docketed Case Procedures

cc: www.irs.gov

Attachment #1 - AP-08-0820-0017

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Attachment #1 - AP-08-0820-0017

8.19.14.7
Docketed Case Procedures

8.19.14.7.1
Tax Court and Department of Justice Cases
(1) All guidance in this section of the IRM is for cases under the Bipartisan Budget Act of 2015 (BBA). All references to Appeals Technical Employee (ATE) refers to any Appeals employee assigned a case for settlement consideration. Actions required by Appeals Team Managers (ATMs) are performed by Appeals Team Case Leaders (ATCLs) as to their own cases.

8.19.14.7.1.1
Appeals TEFRA Team (ATT)
(1) Appeals employees must follow the work request procedures for ATT assistance. Use of ATT is mandatory for Notice of Proposed Partnership Adjustment (NOPPA), Modification, Notice of Final Partnership Adjustment (FPA) and all closing packages. Follow the work request procedures in IRM 8.19.14.2.1 and 8.19.14.2.2 for assignment of an ATT Appeals Officer (ATT AO) and referral to the Appeals Technical Guidance Coordinator (TGC).

8.19.14.7.2
Filing of Petitions
(1) Only the Partnership Representative (PR) can petition a court after issuance of an FPA.
(2) A petition must be filed within 90 days of the mailing of an FPA.
(3) A petition may be filed even if an alternative payment election under IRC Section 6226 has been made.

8.19.14.7.3
Tax Court Cases
(1) The Appeals office receives BBA cases in docketed status after the PR files a petition in Tax Court to an FPA. The petition requests a readjustment of partnership items. The petition can contest adjustments to the partnership return, the calculation of the Imputed Underpayment and the proposed penalties.
(2) Generally, receipt, assignment and consideration of docketed cases will be the same as those for non-docketed cases.
(3) A petition may be filed with the Tax Court, U.S. Court of Federal Claims or a U. S. District Court. The procedures discussed here apply to cases petitioned to the Tax Court only. If a petition is filed with either the U.S. Court of Federal Claims or a U. S. District Court, see IRM 8.19.14.7.4
(4) When a petition is received from other business units, APS will retrieve the key case administrative file, check the petition for accuracy, card-in case and/or update ACDS as described below and forward the case file to Counsel for answer.
(5) APS will input or update ACDS with the following case level information:

- Docket number
- Counsel office
- Attorney

- Enter ACTION code DCJUR
- TODATE is the date the case is forwarded to Counsel
- SNTYPE: FPA
- SNDATE
- SNEXPDATE

(6) In addition, APS will input or update ACDS with the following return level information:
- Remove statute date from **STATDATE** field
- Enter statute code: **DOCKT**

Note: See similar TEFRA card-in procedures in IRM 8.20.5.33.1

(7) APS will update AIMS using CC:AMSTUE to Status "72."
(8) Refer to IRM 8.19.14.7.3.2 below for procedures to follow if the case is later returned to Appeals to settle and when the case is closed by either Appeals or by Counsel.

Note: Appeals will hear the same issue only once for BBA cases regardless of substantive issues or modification issues.

8.19.14.7.3.1
Tax Court Rule 255.1 et seq. Certain Requirements
(1) The Tax Court has adopted special rules relative to BBA partnership proceedings that are found at its website: https://www.ustaxcourt.gov/resources/ropp/Rule-255.1(New).pdf

8.19.14.7.3.2
Working Docketed BBA Cases in Appeals
(1) After the petition has been answered and the case is assigned to an ATE, the ATE will work to settle the case by resolving the substantive and modification disputes. ATT and TCS will provide support services to assist in obtaining, and producing documents for, a settlement. If a settlement is reached with the PR, ATT will request TCS prepare a computation, which will be forwarded by the ATE to Counsel for preparation of decision documents. If a settlement is not reached with the PR, the ATE will prepare the administrative file for Counsel trial preparation.

8.19.14.7.3.3
TCS Requests for Docketed BBA Cases
(1) All TCS requests are routed through ATT. The ATE should complete and forward the following documents to the ATM:
- Form 3608-A, *Request for TEFRA Service*,
- Form 5402, *Appeals Transmittal and Case Memo*, and
- An ACM with an attached Schedule of Adjustments.

(2) Upon approving and signing the Form 5402, the ATM submits the TCS request with attachments to the ATT mailbox at *AP TEFRA Team. The ATT AO will work with the TCS to prepare Form 15027, *Partnership Summary of Approved Modifications and the Imputed Underpayments.* Counsel may also use a Form 3608, Counsel Settlement Memorandum, or Form 1734, *Transmittal Memorandum*, detailing the settlement amounts.

8.19.14.7.3.4
ATT AO Review and Docketed Case Closing by ATE
(1) After TCS prepares the docketed case package, TCS routes the report to the ATT AO for an initial review. Once the ATT AO approves the package, the ATT AO sends an email to the ATE

for review and forwarding to Counsel. Counsel will prepare the decision document that will be sent with the package.
(2) The ATE is responsible for reviewing the docketed case package and is ultimately responsible for the accuracy and completeness of the documents in a docketed case settled by Appeals.
(3) When the stipulated decision documents are received from Counsel, the ATE will prepare Form 5402 and submit the case (including the stipulated decision documents) to the ATM for approval before the decision is mailed to the PR.

> **Note**: Docketed EZ Close Procedures do not apply to BBA cases.

(4) After the ATM approves the settlement, the ATE will send the stipulated decision document to the PR for signature with Letter 1220 or Letter 1220-A. The PR is required to sign the stipulated decision document; the signature of the PR's counsel is not acceptable by itself but may be added in addition to the PR's signature.

> **Note**: ATE may share a copy of the revised computation, Form 15027, with the PR labeled with the header "Copy Only – Do Not Sign" to demonstrate the revised Imputed Underpayment computation.

(5) The ATE will prepare Letter 1645, *Approval of Settlement / Docketed Case*, and leave an undated copy in the file so that it can be dated and mailed by local APS when the case is sent to Counsel for entry of decision.
(6) When the stipulated decision document has been signed and returned by the PR, the ATE will close the case to local APS for routing to the Ogden BBA Unit, M/S 4705, Arka Monterey Park Building, 1973 North Rulon White Blvd., Ogden, UT 84404-5402.

8.19.14.7.3.5
Tried Cases or Counsel Settlements
(1) For cases that are either tried or settled by Counsel, after the decision is entered Counsel will return the case to ATT for closing along with a copy of the entered decision, the Counsel Settlement Memorandum (if applicable) and any special instructions. The case should be sent to Laguna Niguel APS. ATT will assist, if necessary, in preparing the case for closing. If the case is not appealed, the case will be routed to the Ogden BBA Unit by Laguna Niguel APS for final closing.

8.19.14.7.3.6
Tax Court Decision Appealed
(1) If a PR or the government appeals the decision of the Tax Court, Counsel will return the case to Appeals for interim processing. Counsel will prepare instructions for processing the case. The case should be sent to Laguna Nigel APS. ATT will assist, if necessary, in preparing the case for closing.
(2) After notification of the appeal is received, Laguna Niguel APS will:
(a) Update ACDS with ACTION: APPEALED and TODATE;
(b) Update the remarks section of ACDS; and,
(c) Forward the case to Counsel who will then route the case to DOJ.

8.19.14.7.3.7
Final Decision from Appeal of Tax Court Decision
(1) When an appeal from a Tax Court decision is final, the Department of Justice will return the case to Appeals through Counsel to complete processing. The case should be sent to Laguna

Niguel APS. ATT will assist, if necessary, in preparing the case for closing. Laguna Niguel APS will forward the case to the Ogden BBA Unit for final closing.

8.19.14.7.4
Department of Justice Cases
(1) The procedures for attorneys to notify the Ogden BBA Unit of a settlement agreement, or a decision or dismissal in District Court of the United States or the U.S. Court of Federal Claims for a BBA partnership case have not been issued as of the date of this IRM section.
(2) A petition for readjustment with respect to any partnership adjustment may be filed in a District Court of the United States or the Court of Federal Claims, only if the partnership filing the petition deposits with the IRS on or before the date the petition is filed, the amount (as of the date of the filing of the petition) of any Imputed Underpayment (as shown on the FPA) and any penalties, additions to tax, and additional amounts with respect to such Imputed Underpayment. If there is more than one Imputed Underpayment reflected in the FPA, the partnership must deposit the amount of each Imputed Underpayment to which the petition for readjustment relates and the amount of any penalties, additions to tax, and additional amounts with respect to each such Imputed Underpayment to the IRS office or business unit that issued the FPA. Appeals will not acquire jurisdiction of a case if a petition is filed in one of these courts.
(3) A U.S. Court of Federal Claims or U.S. District Court petition will normally be sent to the local Counsel office where the petition is filed for preparation of the defense letter.
(4) When a decision is final for a case that had previously been in Appeals and which was petitioned to a District Court of the United States or the U.S. Court of Federal Claims (or a case appealed from these courts), the Department of Justice may return the case to Appeals through Counsel if assistance is needed to complete processing. The case should be sent to Laguna Niguel APS. ATT will assist, if necessary, in preparing the case for closing. Laguna Niguel APS will forward the file to the Ogden BBA Unit.
(5) The Department of Justice will return the case through Counsel directly to the Ogden BBA Unit if no Appeals assistance is necessary.