



INDEPENDENT OFFICE
OF APPEALS

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, DC 20224

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8.22.9

MEMORANDUM FOR: Director, Account & Processing Support (APS), East
Director, Account & Processing Support (APS), West
Director, Account & Processing Support (APS), Spec Prog
Director, Collection Appeals

FROM: Patrick E. McGuire /s/ *Patrick E. McGuire*
Acting Director, Case and Operations Support

SUBJECT: Transmitting the Collection Due Process (CDP) Admin File
to Counsel for Docketed Cases

This memorandum issues guidance on how the closed Collection Due Process (CDP) administrative (admin) file will be transmitted from Appeals to Counsel for docketed cases until IRM 8.20.6 and 8.22.9 are published. Please ensure that this information is distributed to all affected employees within your organization.

Purpose: To update the transmittal process for submitting the admin file to Counsel after a CDP determination is petitioned. This process affects Account & Processing Support (APS), Appeals Technical Employees (ATEs) and the Appeals Team Managers (ATMs).

Background/Source(s) of Authority: Appeals is required to send Area Counsel the closed CDP admin file for a docketed CDP case.

As a modernization effort, electronic case processes are being implemented on an Enterprise-wide level. Appeals has transitioned to primarily electronic processes in the CDP workstream, but there are some CDP physical case files that will also be associated to a docketed case. The Docket Information Management System (DIMS) is a list of cases docketed by U.S. Tax Court. The list is prepared by Counsel after the Tax Court serves the taxpayer's petition(s) to the Commissioner. Each day, Counsel sends a Docket list to Appeals. In Appeals, the Docket Lists are transmitted to the Fresno 3 APS team (known as the APS DIMS Team). The APS DIMS Team uploads the Docket list to the Appeals Centralized Database System (ACDS) DIMS tracking system and is responsible for notifying APS of petitions filed on Appeals issued Notice of Determinations.

Procedural Change: The ATE is responsible for creating an admin file PDF “portfolio” that will be uploaded to ACDS for Counsel’s review. The term administrative record/file generally refers to all documents and materials received, developed, considered, or exchanged in connection with the administrative determination. The Docket Number will be used to name the PDF portfolio that is uploaded to ACDS. For the contents of the entire administrative record, see the attachment below and [IRM 8.22.9.2](#), Administrative Record. The attachment below includes a breakdown of the admin file contents and the specific changes for APS, ATE’s, and ATM’s.

Effect on Other Documents: This guidance will be incorporated into the IRMs shown above within two years from the date of this memorandum.

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

Contact: Appeals employees should follow existing procedures to elevate questions through their management chain and follow established procedures on [How to Contact an Analyst](#).

Attachment(s):

Updated Guidance

cc: www.irs.gov

Revisions to the Appeals IRM

**8.20.6.21.1 (MM-DD-YYYY)
Petitioned CDP Cases - DCJUR**

APS will become aware of the petition through the Docket List provided to the APS DIMS Team. The DIMS Team will send an email to the ATE/ATM and CC the PTM to notify them of the docketed case. The email will request the ATE/ATM create and upload the admin file PDF portfolio documents to ACDS for both paper and paperless CDP cases.

Follow current procedures as listed under (1)

(1) Use "Special Activities Menu" option 5 "Closing Code 42/43 Update" to update ACDS case/returns screen:

- a. DKTNO = docket number
- b. CLOSINGCD = 43 (This closing code will move the case to Part 3, status E/T)
- c. DATECLSD = date case sent to Counsel
- d. DC OFFICE = enter the local Counsel office
- e. ATTORNEY = attorney's name
- f. Statute CODE = **SUSP** for each tax period identified on the petition

(2) **For a paper CDP case file:** APS will mail the physical portion of the CDP administrative file to the Area Counsel office that has jurisdiction. Whenever transmittal memo [Form 2828](#), [Form 3210](#), or E3210 are used, perform timely follow-up until Counsel acknowledges receipt of the administrative file.

NOTE: For hybrid case files (physical and electronic) include the associated TFRP or OIC file that was reviewed under the CDP, unscanned examination source documents, etc. The physical file must be sent to Counsel based on the instructions above and the electronic file needs to be sent per the instructions in (3) below.

(3) **For a Docketed CDP case:**

APS Responsibilities:

- a) The APS DIMS Team will monitor the appropriate Docketed list.
- b) Send an email to the ATM/ATE and CC to the PTM requesting the ATE prepare the administrative file as described below.

Note: The ATE should have already uploaded the required documents to ACDS, so it is not necessary to forward any physical CDP case file to the ATE to create the PDF portfolio.

Note: If the ATE/ATM does not upload or notify APS within two weeks that the admin file has been uploaded – APS will send a follow up email to the ATE/ATM, PTM and include the Area Technical Advisor.

Technical Employee Responsibilities:

- a) The ATE (or if unavailable due to reassignment, retirement etc., the ATM) will prepare a PDF portfolio containing all the documents of the administrative file, see [IRM 8.6.2.9](#) Transferring a Case to Counsel’s Jurisdiction.
- b) Naming Convention will be the Docket Number.
- c) Once prepared the ATE/ATM will upload the document to ACDS.
- d) The ATM/ATE will email the PTM listed in the original email to indicate the admin file documents are uploaded to ACDS.

Note: The ATE/ATM will prepare the admin file within two weeks of being notified by the APS DIMS Team.

APS Responsibilities:

- a) PTM will assign to TE.
- b) TE will update to DCJUR and notify Counsel that the admin file is available on ACDS via the [SB/SE Counsel portal](#). If a physical file is also being sent make an annotation in the portal notes field.

(4) APS then takes the appropriate steps to update ACDS, including: (i) adding the docket number and Counsel information, (ii) moving the case from Part 2 to Part 3, and (iii) updating the action code to *DCJUR*.

**8.22.9.2, (MM-DD-YYY)
Administrative Record**

(2) Regardless of the format of the administrative record (paper, electronic, or a hybrid of the two), at closing, the record includes the following:

- Final Notice of Determination (NOD) and any Supplemental NOD that includes the date, signature, and certified mail number (if applicable)
- Appeals Case Memorandum (ACM)/attachments to the NOD
- Case Activity Record (CAR), including hand-written notes maintained separately from the CAR
- Final Form 5402
- CDP hearing request and envelope (if available)
- CDP lien/levy notice (Letter 3172, Letter 1058, etc.). If not available, include transcripts showing appropriate transaction code entries
- All documents including emails, faxes, and correspondence sent to or received from the taxpayer/representative, in any format

- All documents and correspondence sent to or received from the Service (such as in response to an ARI, or an IS, OIC, PENAP or other CDP related issue)
- Any account transcripts reviewed by you (AMS, ICS, IDRS, Form 4340, etc.)
- Any financial or related forms (Form 433-A, 433-B, 433-F, Form 14561, etc.) and supporting documentation
- Forms 656, 656-L and/or 14640
- Documentation related to verification of supervisory approval of penalties under section 6751(b)(1)
- Other documents obtained from the Service's records, and which were reviewed in making determinations regarding underlying liability or other determinations, including:
 - Tax Returns
 - SNOD and supporting documents
 - For certain TFRP issues, Letter 1153 and Form 4183 and related documents
- Documentation establishing that a liability issue should be precluded from consideration in CDP
- Documentation establishing that an issue is precluded from consideration in the CDP hearing under 6330(c)(4)
- Form 14041, Waiver of Right to Request New Settlement Officer, if applicable
- Tape Recordings (if the taxpayer recorded the hearing)

This is not an exhaustive list, as there could be other documents that were used to make this determination that are not listed. Those items must be included in the admin file. See regulations explaining the administrative record for purposes of Tax Court review in Treas. Reg. Section 301.6320-1(f)(2) Q&A-F4 and Treas. Reg. Section 301.6330-1(f)(2) Q&A -F4.

8.22.9.15.3 (MM-DD-YYYY) Petitioned Cases

- (1) When a taxpayer petitions the US Tax Court to review a CDP determination, Counsel must submit the entire administrative record to the Court. Appeals is responsible for providing Counsel with the entire administrative record. For contents of the entire administrative record, see [IRM 8.22.9.2](#), Administrative Record.

Note: After reviewing the IRM, if questions remain regarding contents of the administrative record, you can contact Counsel.

- (2) APS DIMS Team will notify the ATE and ATM by email to prepare the administrative file with a CC to the PTM. Upon receipt, the ATE (or ATM if the ATE is unavailable due to reassignment, retirement, etc.) will:

- a. Prepare a PDF portfolio containing all the documents of the administrative record. Use the docket number as the name for this file.
- b. Once prepared, the ATE/ATM will upload the document to ACDS.
- c. The ATM/ATE will respond to the email from APS DIMS Team and CC the PTM to advise them the administrative file has been uploaded to ACDS.

Note: The ATE/ATM will upload the admin file within two weeks from being notified by the APS DIMS Team.