INDEPENDENT OFFICE OF APPEALS

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, DC 20224

July 31, 2026

Control No. AP-08-0726-0052
Expiration Date: 07/31/2028
Affected IRM: 8.11.1

MEMORANDUM FOR ALL IRS INDEPENDENT OFFICE OF APPEALS EMPLOYEES

FROM: Steven M. Martin */s/ Steven M. Martin*
Director, Operations Support

SUBJECT: Appeals Case Management System (ACMS) and One Big Beautiful Bill Act (OBBBA) updates for IRM 8.11.1, Return Related Penalties in Appeals

This guidance provides general information about ACMS and OBBBA updates detailed in IRM 8.11.1, Return Related Penalties in Appeals. Please distribute this information to all impacted employees within your organization.

**Purpose:** This guidance provides changes in terminology and new processing functionality for the IRS Independent Office of Appeals (Appeals) new case management system, ACMS.

**Background/Source(s) of Authority:** Appeals Centralized Database System (ACDS), Appeals' aging legacy system, is being replaced by ACMS, a more modernized system. Appeals contracted Salesforce to create ACMS, which will provide Appeals with a new level of automation and analytics. These updates will allow for more effective collaboration within Appeals and, in the future, with other IRS business units.

The IRC 6676, Erroneous Claim for Refund or Credit, penalty was created to discourage taxpayers from making erroneous refunds or credit claims. Section 70605(f) of the OBBBA, Pub. L. No. 119-21 (July 4, 2025), amended the IRC 6676 penalty to include claims for credit or refund with respect to employment tax after July 4, 2025.

**Procedural Change:** Release 1 of ACMS focused on Collection Appeals work. Release 2 of ACMS will focus on Examination Appeals and Specialized Examination Programs and Referrals (SEPR) case work. Future releases will incorporate concepts introduced in this guidance and will be reinforced via training and applicable user guides. Procedural changes pertaining to this guidance are included in the attachment.

**Additional Information:** Additional information on ACMS can be found on the Appeals Exchange (ApEx) ACMS Home Page. This site contains links for helpful information with ACMS, training documents, etc.

**Effect on Other Documents:** Portions of this guidance may be extended, modified, or made permanent, and incorporated into the affected IRM section(s) 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

cc: FOIA Library
www.irs.gov

Attachment AP- AP-08-0726-0052, Appeals Case Management System (ACMS) and One Big Beautiful Bill Act (OBBBA) updates, IRM 8.11.1, Return Related Penalties in Appeals

**Throughout 8.11.1**

- References to Appeals Centralized Database System (ACDS) will be changed to Appeals Case Management System (ACMS).
- Form 5402, Appeals Transmittal and Case Memo, has been replaced. The 'Printable View' feature now captures the information found on Form 5402, and is referred to as the E-5402.

**8.11.1.2.6 (MM-DD-YYYY**)
**New Receipt Procedures for Appeals Technical Employees (ATEs)**
Updated Note in paragraph (1), updated paragraphs (2) through (4) and the table in paragraph (4)

(1) **Note:** ATMs will be reasonable in extending the contact timeframe if circumstances (e.g., leave, workload, case complexity, or other priorities) prevent the ATE from meeting it. If the ATM extends this timeframe, the ATE will document this decision and the agreed upon timeframe in the Case Action Record (CAR) in ACMS. **The statute verification timeframe cannot be extended beyond 45 days.** If the contact timeframe is extended beyond 75 days, then the ATM will contact the taxpayer/representative by correspondence, providing the status of the case and to whom the case is assigned.

(2) Validate the Case Summary (CS) information, including the Penalty Reference Number (PRN), and make updates, if necessary. See IRM 20.1.1.5.3, Penalty Reference Numbers (PRNs), for information on PRNs.

> **Note:** PRNs must be entered for Civil Penalty cases with Master File Tax (MFT) 31, 42, or 55. If Account and Processing Support (APS) did not enter a PRN, the ATE must enter the applicable PRN. If multiple PRNs are applicable, enter the PRN for the most material penalty at issue.

(3) ATEs can edit various fields in ACMS. If a field cannot be edited, submit an account processing support request to APS requesting the appeal be updated.

(4) In addition to PRNs, there are several ACMS subcategory codes used to identify the type of penalty case, including:

| **Subcategory** | **IRM Reference** |
|---|---|
| Penalty Abatement Request (PENAP) | Including Return Related Penalties that are deficiency or deficiency-type pre-assessed penalties. See IRM 8.11.1.3, Return Related Penalties Worked in Appeals, and IRM 8.11.4, Penalty Appeals (PENAP). |
| Return Preparer/Promoter/Appraiser Penalty | IRM 8.11.3, Return Preparer Penalty Cases |

| | |
|---|---|
| Transaction Penalty | IRM 8.11.7, Abusive Transaction Penalties |
| Excise/Other Penalty | If no specific subcategory for the IRC penalty code section asserted, use the subcategory "Excise Penalty/Other." See IRM 8.11.8 Miscellaneous Penalties. |

**Note:** A penalty with an MFT 13 or 55 will have the category "Civil Penalty" with the applicable subcategory shown in the chart above. For additional information on categories and subcategories, refer to the Appeals Exchange (ApEx) ACMS Home Page.

**8.11.1.2.8 (MM-DD-YYYY)**
**Closing Procedures for Appeals Technical Employees (ATEs)**
Updated paragraphs (2), (4), and (5)

(2) Use approved document generation tools to create standard forms and letters not found in ACMS.

(4) Use the E-5402 to:

- Show the affected tax periods included in the case.
- Provide case routing instructions to APS.
- List penalty transaction codes (TCs).
- Provide a source document to adjust the taxpayer's account based on the case determination.
- Include special instructions related to processing the case.
- Notate in the Remarks section of the E-5402 when a certified claim disallowance letter had been issued (e.g., Letter 1363, Appeals Partial Disallowance of Refund Claim - Certified, and/or Letter 1364, Appeals Full Disallowance of Refund Claim - Certified*)*, instructing APS to enter this information in ACMS. The reason for this requirement is to ensure duplicate certified letters are not issued, which may erroneously extend the two-year period to file suit with the applicable court.
- Send feedback to Compliance when an address is provided in the "Route Case To**"** field on the E-5402.

  **Note:** See the discussion of APS's closing procedures and explanation of the closing codes and blocking series in IRM 8.20.7.16, Civil Penalty MFT 13 (BMF) MFT 55 (IMF) Closing Procedures.

(5) Prepare the applicable closing letter.

**8.11.1.3 (MM-DD-YYYY)**
**Return Related Penalties Worked in Appeals**
Deleted Note in paragraph (1)

**8.11.1.3.2 (MM-DD-YYYY)**
**Statute of Limitations**
Updated paragraph (1)

(1) Generally, the statute of limitations for return related penalties is the same as the statute of limitations for underpayments of the tax required to be reported on the income tax return, but this is not necessarily true for the IRC 6676 penalty. For information on the statute of limitations for IRC 6676 penalty cases, see IRM 8.11.1.3.7, IRC 6676.

**8.11.1.3.6 (MM-DD-YYYY)**
**Processing Fraud Penalty Cases**
Updated the caution in paragraph (1)

> **Caution:** In any case where criminal prosecution against the taxpayer was recommended to the Department of Justice, the recommendation or concurrence of Counsel is required for reduction or elimination of the sections 6663 and 6651(f) penalties—whether or not the criminal prosecution recommendation resulted in a conviction. This requirement also applies to any related taxpayer involved in the same transaction, and to the same taxpayer with respect to any tax year or period affecting the tax year or period for which criminal prosecution was recommended. (See IRM 1.2.2.9.8, Delegation Order 8-8 (Rev. 1) (formerly DO-66, Rev. 15), Authority of Appeals in Protested and Tax Court Cases.) Counsel concurrence is required for the reduction of any criminal fraud income item. The concurrence must be included in the administrative case file and/or uploaded to ACMS. Refer to IRM 8.7.1.9, Cases Involving Criminal Prosecution and Restrictions on Appeals Jurisdiction in Criminal Cases, for cases in which a recommendation for criminal prosecution is pending.

**8.11.1.3.7 (MM-DD-YYYY)**
**IRC 6676**
Revised paragraphs (1) and (2), deleted paragraph (3), updated paragraph (4) and renumbered paragraphs.

(1) The IRC 6676 penalty applies when a claim for refund or credit with respect to income or employment tax is submitted for an **"excessive amount,"** and there is no reasonable cause for the claimed tax treatment.

> **Note:** IRC 6676 applies to claims for refund or credit with respect to employment taxes after July 4, 2025. See One, Big, Beautiful Bill Act (Public Law 119-21), Section 70605(f) and (g)(4).

(2) These cases are controlled in ACMS using the subcategory "Transaction Penalty" with the applicable PRN.

(3) The IRC 6676 penalty is generally **not** subject to deficiency procedures. Therefore,

the penalty should generally **not** be included in the examination report (30-day letter) or statutory notice of deficiency relating to the disallowed claim for refund or credit return or the filed income tax return. However, when the determination of the IRC 6676 penalty is dependent on the determination of a deficiency, the IRC 6676 penalty is subject to deficiency procedures. See IRM 20.1.5.21.4, Case Procedures WITH Deficiency Procedures. In all other cases where the excessive amount is not part of a deficiency, the IRC 6676 penalty is assessable without following deficiency procedures. See IRM 20.1.5.21.5, Case Procedures WITHOUT Deficiency Procedures.

> **Note:** Employment taxes are not subject to deficiency procedures. Generally, the IRC 6676 penalty will be asserted on erroneous employment tax claims using non-deficiency procedures except for worker classification disputes under IRC 7436, which apply the principles of certain provisions of deficiency procedures. See IRM 4.23.9, Employment Tax Penalty, Fraud, and Identity Theft Procedures, and IRM 4.23.13, Adjusted Returns, Abatements and Claims.

**8.11.1.3.7.2 (MM-DD-YYYY)**
**ATE Consideration for IRC 6676**
Updated link in paragraph (5)

(5) For statute consideration of pre-assessed IRC 6676 penalty cases, see IRM 20.1.5.21.2, Statute Consideration.

> **Note:** The Assessment Statute Expiration Date (ASED) for the income tax case and the IRC 6676 penalty could be different dates, or the dates could be the same if the claim for refund is the original tax return. In any event, the ASED for assessment of a tax deficiency, and the ASED for assessment of the IRC 6676 penalty, must be separately controlled and protected by means of the appropriate consent forms.