INDEPENDENT OFFICE OF APPEALS

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, DC 20224

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MEMORANDUM FOR ALL IRS INDEPENDENT OFFICE OF APPEALS EMPLOYEES

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SUBJECT: Appeals Case Management System (ACMS), barred refunds, and IRC 6038A penalty relief updates for IRM 8.11.5, International Penalties

This guidance provides general information about ACMS, barred refund procedure updates, and IRC 6038A penalty relief detailed in IRM 8.11.5, International Penalties. 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. Also, procedures to close a fully paid case when the overpayment created is barred from refunding, and a reference to IRC 6038A penalty relief has been updated.

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.

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 Homepage. 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.

Distribution: FOIA Library on IRS.gov

Attachment

cc: www.irs.gov

Attachment, AP-08-0726-0054, Appeals Case Management System (ACMS), barred refunds, and IRC 6038A penalty relief updates for IRM 8.11.5, International Penalties

Throughout 8.11.5

- References to the 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.
- References to a Work Unit Number (WUNO) will be changed to Appeals Number.

8.11.5.1.5 (MM-DD-YYYY)
Common Terms and Acronyms
Updated and added terms to the table in paragraph (2)

CR-NR	Case Received-New Receipt. A systemic entry input in ACMS when the Appeals Technical Employee (ATE) acknowledges receipt of the case.
PENAP	Penalty Abatement Request

Deleted term:

WUNO	Work Unit Number

8.11.5.2.2 (MM-DD-YYYY)
Civil Penalties and Penalty Appeals (PENAP) Program
Updated paragraph (1)

(1) Post-assessed international information return civil penalty cases are controlled in ACMS with a category of “Civil Penalty,” subcategory code “International Information Penalty,” and the applicable Penalty Reference Number (PRN). See IRM 8.11.5.2.3, Identifying an International PENAP Case, for common international information return penalties and applicable PRNs disputed in Appeals.

8.11.5.2.3 (MM-DD-YYYY)
Identifying an International PENAP Case
Updated title

8.11.5.2.4 (MM-DD-YYYY)
Assessed Penalty Settlement Authority
Updated paragraph (2)

(2) Submit the case to the ATM for approval. After the ATM approves the ATE recommended settlement, the ATM’s signature will appear on the E-5402.

8.11.5.2.5 (MM-DD-YYYY)
Technical Support Referral

Attachment, AP-08-0726-0054, Appeals Case Management System (ACMS), barred refunds, and IRC 6038A penalty relief updates for IRM 8.11.5, International Penalties

Updated section title and paragraph (2). Changed Note 1 to paragraph (3) and made updates. Added a new Note 1.

(1) During the preliminary review, the ATE submits a Technical support request, through the ATM, as required by IRM 8.2.1.6, Preliminary Review of a Case – ATE.

(2) Add feature code "Appeals Technical Assistance Issue (AI)" when the Appeals coordinated issue (ACI) is first identified.

Note 1: ACIs must be input as an issue in ACMS.
Note 2: See IRM 8.7.3.5.2, Review and Concurrence - ATE's Responsibility, for procedures.

8.11.5.2.6 (MM-DD-YYYY)
Collection Due Process (CDP) / Equivalent Hearing (EH) Cases Liability Raised Referral
Updated paragraphs, removed paragraph (5), and renumbered remaining sections

(1) When a Collection Appeals ATE identifies a civil penalty for which a referral to Area 11 must be submitted, the Collection Appeals ATE creates a Technical support request within ACMS to request international assistance for the liability issue.

(2) An Area 11 ATM, or designated official, assigns the support request to an ATE.

(3) The Area 11 ATE acts as a consultant when making a determination on the liability.

(4) Once the support request is assigned, the Area 11 ATE works the case, similar to other penalty cases, with the goal of closing the case within 120 days.

(5) If the penalty is an ACI, the Collection Appeals ATE must submit a separate support request within ACMS to request specialist assistance. The support request type to select is "Technical."

Note: If an Area 11 ATE is assigned to consult on international issues, they may include ACI issues. The Area 11 ATE may need to contact the assigned Collection Appeals ATE to create a separate support request for the ACI issue.

(6) The administrative file available for the Technical support request must be secured and organized by the Collection Appeals ATE. If requested information is unavailable, document this accordingly. The file should include relevant materials about the disputed issue, such as taxpayer notices, compliance documents, and the taxpayer's written statement with supporting evidence for liability changes.

(7) Closing the support request.

a. The Specialized Examination Program and Referrals (SEPR) ATE must input the applicable case action record, and upload the ACM to ACMS, following the

Appeals naming convention. See IRM 8.6.2.3.5(2), 5402 and ACM Case Closing Procedures. IRM 8.6.2, Appeals Case Memo Procedures, provides additional information on the preparation of ACMs. If the ACM contains hazards details, or other privileged information, the SEPR ATE should clearly mark the language to identify it and the Collection Appeals employees should not share this information outside the IRS.

b. The SEPR ATE will include adjustment instructions to Account and Processing Support (APS) when inputting the closing information in ACMS.

Note: There is no closing letter issued by Area 11 ATEs on Collection Due Process (CDP) / Equivalent Hearing (EH) liability referral requests.

(8) The Area 11 ATM reviews the determination and closes the support request.

8.11.5.3 (MM-DD-YYYY)
New Receipt Procedures for ATEs
Updated the actions in Steps 3 and 6 within the table in paragraph (1). Updated paragraph (3) and deleted (3)a. and bullets and (3)b.

3.	Entity Level Information: • Taxpayer name, address, Power of Attorney (POA)/Representative information (including phone/fax number), taxpayer identification number (TIN)/employer identification number (EIN). • Master File Tax (MFT) = generally 13 (BMF EIN) or 55 (IMF SSN). • Feature Code = International Case (IC), and any others that apply, such as Appeals Technical Assistance Issue (AI). • PRN(s). Each penalty identified by TC 240 and the corresponding PRN in Integrated Data Retrieval System (IDRS). **Note:** If a PRN was not entered by APS, the ATE must enter the applicable PRN. If multiple PRNs apply, enter the PRN for the most material penalty at issue. See Exhibit 20.1.1-5, Penalty Reference Numbers (600 Series). • Category = Civil Penalty Return Level Information: • Statute Date = Blank • Statute Code = ASESD • Tax Period. ACMS years agreed to protested tax periods. • Amount Appealed. Enter the dollar amount (round to the nearest whole dollar) of each penalty identified in IDRS for each TC 240 in dispute with the corresponding PRN.

	The ATE can edit various fields within ACMS. If a field cannot be edited, submit an account processing support request to APS.
6.	The ATE identifies issues and ACIs. • The ATE will create each ACI as an issue in ACMS. • If applicable, the ATE will create an issue for at least the five most material issues, identified by Uniform Issue List (UIL). • The ATE submits a Technical support request, as applicable, through the ATM within ACMS. See IRM 8.11.5.2.5, Technical Support Referral.
7	Use the Appeal Search function in ACMS to search for any potential duplicate, related, or parallel CDP cases. a. Duplicate cases have the same issue/tax year currently being worked by another ATE or previously worked by another ATE that is now closed. If you find a duplicate case, ask your ATM for guidance. b. Related cases involve the same taxpayer. If the search returns a related case assigned to another non-collection ATE, contact your ATM for guidance. c. Parallel CDP cases are assigned to a Collection Appeals ATE with the same penalty liability as the Area 11 case. If the search returns a parallel CDP, contact the Collection Appeals ATE assigned to the CDP appeal to determine whether the Area 11 International PENAP case should be transferred to the Collection Appeals area once the Area 11 ATE has an approved recommendation for the liability. If so, follow the closing instructions contained in IRM 8.11.5.2.6, Collection Due Process (CDP) / Equivalent Hearing (EH) Cases Liability Raised Referral.
8	Initial taxpayer contact: a. Follow IRM 8.2.1.4, Receipt of New Assignment by an Appeals Technical Employee (ATE). b. Attempt to settle the case based on factual hazards when the case submitted by the originating function is not fully developed, and the taxpayer has provided no new information or evidence. • If the case is fully conceded based on the information in the file, contact the taxpayer via telephone to explain the basis of the recommendation and next steps. • Document the initial contact in the ACMS case action records with action type “Telephone Contact (TC)” and action subtype “Substantive Contact Made By Phone (SCM).” The ATE will complete the appropriate closing actions within a reasonable time. For closing procedures, see IRM 8.2.1.4.2, No Initial Contact Letter Required for Certain Cases, and IRM 8.11.5.14, Closing Procedures for Appeals Technical Employees.

Attachment, AP-08-0726-0054, Appeals Case Management System (ACMS), barred refunds, and IRC 6038A penalty relief updates for IRM 8.11.5, International Penalties

(3) In ACMS, the category, subcategory, and PRN will be used to identify an international information return (IIR) case. In many instances, this information will be entered prior to case assignment. During the 45-day initial review, the ATE must verify that the category, subcategory, and PRN are correct.

8.11.5.4.1 (MM-DD-YYYY)
Payments/Credits Applied to the Civil Penalty Module
Modified paragraph (6)

(6) Penalties should not be abated on a fully paid account if the overpayment created is barred from refunding because the refund statute of limitations has passed, and no condition exists that will extend the refund period. This is true even if the taxpayer's claim for penalty abatement is based on reasonable cause. See IRM 25.6.1.10.1.1(7), Abatement Authority. On a fully paid module, with an overpayment barred from refunding, do not consider the merits of the claim. Follow the appropriate procedures in IRM 8.7.7, Claim and Overassessment Cases*,* to close these cases as a barred no consideration case.

8.11.5.6.2 (MM-DD-YYYY)
IRC 6038A Penalty Relief
Updated paragraph (3)

(3) The FTA penalty relief provisions generally do not apply to event-based filing requirements. However, see the exception in IRM 20.1.9.5.5(3), Reasonable Cause, for the **potential** applicability of FTA relief to certain Form 5472 systemically assessed penalties with PRN 711.

8.11.5.14 (MM-DD-YYYY)
Closing Procedures for Appeals Technical Employees
Updated paragraphs (1) and (2), revised paragraphs (4) through (6), and removed paragraphs (7) and (8)

(1) This section discusses the process an ATE uses to close international civil penalty cases established with a category code "Civil Penalty" and a subcategory code "International Information Penalty" in ACMS.

(2) Use approved document generation tools to create standard forms and letters not found in ACMS. In rare situations, resolution of the case will involve a specific matter closing agreement. See IRM 8.13.1, Processing Closing Agreements in Appeals.

(4) Closing information will be entered into ACMS. The information entered is populated into the E-5402 via the printable view option. The ATE will generate an E-5402 to:

- Show the affected tax periods included and penalties considered in the case.
- Show TCs and amounts.
- Show applicable IRC section references.
- Show where to route the case and provide feedback.

- Show APS how to adjust the taxpayer's account for each penalty considered in each period based on the case determination. Generally, the ATE will accomplish this task by entering closing information for each penalty considered in each tax period. This period-by-period and penalty-by-penalty breakdown is needed, so APS can fully and accurately adjust the taxpayer's account.

  Exception: If the ATE is recommending that Appeals fully sustain all protested penalties in a tax period, the ATE may use an optional method to input closing information. For such cases, the ATE may consolidate the information for the tax period, regardless of the number of penalties considered in that tax period. To use this optional method, however, the ATE **must** fully list all penalties considered in the period in the "IRC Sec. Ref. No." field. If all penalties considered in the tax period cannot be listed in the "IRC Sec. Ref. No." field in ACMS, this optional method **cannot** be used by the ATE.

  Example: An ATE considers a case in which an individual taxpayer has protested a penalty assessed for an alleged failure to file Form 5472 timely and accurately. For 20X1, these assessed penalties total $25,000. The ATE is required to confirm that the penalty has been fully assessed.

  After considering the taxpayer's arguments, the ATE concludes the penalty should not be fully or partially abated. The penalty considered in the tax period can be fully shown in the "IRC Sec. Ref. No." field, and the ATE may use the optional method for preparing the E-5402 described in the "Exception" paragraph above.

  If the ATE chooses to use this optional method, the E-5402 will have one row for the tax period. In relevant part, and with certain columns omitted because of space limitations, the E-5402 Tax Period Revised Dollars section should resemble the following:

Tax Period	...	IRC Sec. Ref. No.	Amount Appealed	Amount Sustained	Amount Abated	IDRS Reason Code
20X1	...	6038A	$25,000.00	$25,000.00	$0.00	41

  The ATE will:

  - Input penalty adjustment amounts using exact dollars and cents when making full and partial abatements.
  - Input the correct closing code and applicable resolution reason code.
    - Closing Code 14 – Compliance fully sustained (penalties are not removed).

  - Closing Code 15 – Compliance not sustained/fully abated (penalties are fully removed).
  - Closing Code 16 – Compliance partly sustained/partly abated (only part of the penalties are removed).
  - Closing Code 20 – Premature Referral.

- Include special instructions related to processing the case in the Remarks field and indicate any special features, if applicable.
- Notate in the Remarks 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), and instruct 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.
- Input the proper IDRS reason code:

  - **40** – Fully Abated,
  - **41** – Sustains Penalties, or
  - **42** – Partially Sustains Penalties (part of the penalty is abated).

(5) Prepare the appropriate closing letter:

- Letter 1277, Penalty Appeal Decision, if the taxpayer's penalty abatement request is not fully granted. Use the narrative section to provide the reason for denying the abatement request in full or in part; or
- Letter 1278, Penalty Appeal Abatement, if the taxpayer's penalty abatement request is fully granted.

  Reminder: The closing letter prepared by the ATE should be left undated and should contain the ATM's signature block. After the ATM signs the closing letter, a signed and dated copy of the closing letter that was sent to the taxpayer must be uploaded to ACMS. See IRM 8.20.7.13.2, Closing Letter, for more information about the process of sending closing letters.

(6) Upload the closing documents (closing letter and agreement form, if applicable), and any Appeals-generated or received correspondence, to ACMS, and include a copy in the physical administrative file, if applicable.