



INDEPENDENT OFFICE
OF APPEALS

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, DC 20224

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Affected IRMs: 8.20.5, 8.20.7,
8.20.16.10 (new), 8.25.1 and 8.25.2

MEMORANDUM FOR ALL IRS INDEPENDENT OFFICE OF APPEALS EMPLOYEES

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

SUBJECT: Trust Fund Recovery Penalty (TFRP) procedures update

This memorandum issues guidance that supersedes AP-08-0724-0015, Trust Fund Recovery Penalty (TFRP) procedures update, which expired July 5, 2026, AP-08-1125-0043, Appeals Case Management System (ACMS) procedure updates for IRM 8.25.1, Trust Fund Recovery Penalty (TFRP) Overview and Authority, and AP-08-1125-0044, Appeals Case Management System (ACMS) procedure updates for IRM 8.25.2, Trust Fund Recovery Penalty Cases in Appeals. As of January 9, 2026, all TFRP case files submitted to the IRS Independent Office of Appeals (Appeals) are paperless. Please distribute this information to all impacted employees within your organization.

Purpose: This guidance is issued to update TFRP procedures and incorporate a TFRP paperless process. This affects Appeals Technical Employees (ATEs), Appeals Team Managers (ATMs), and Case Support employees.

Background/Source(s) of Authority: Prior to implementing this process, the Small Business/Self-Employed (SB/SE) Civil Enforcement Advice and Support Operations (CEASO)/Control Point Monitor (CPM) group would mail the physical TFRP case file with any supporting documentation to Appeals for consideration. This case file was then physically mailed within Appeals and ultimately returned to CEASO/CPM. The TFRP cases were worked in the Appeals Centralized Database System (ACDS), but, as of October 2025, Appeals also began working TFRP cases assigned in the Appeals Case Management System (ACMS). The TFRP cases will continue to be worked in ACDS until the cases are migrated to ACMS, approximately October of 2026.

ACDS was modified to systemically notify Account and Processing Support (APS) of the Electronic Case Closure (ECC) when the feature codes for Paperless (PL) and Electronic Closing (EC) were entered in ACDS. The ATMs are not required to email APS to alert

them of the ECC. The use of feature code PL in conjunction with feature code EC does NOT make the file a true paperless case. ACMS will automatically notify APS of the TFRP closure after the ATM's approval.

The Shared Team of Administrative Redaction Support (STARS) began scanning most TFRP physical case files from June 2025 to January 9, 2026. APS uploaded the digitally scanned TFRP documents to ACDS, and the physical TFRP case files are/have been stored at the Holtsville post of duty. After the case is closed, Case Support will mail the physical case file to CEASO/CPM group (**CPM Site Manager, 3211 S. Northpointe Drive, Stop 22001, Fresno, CA 93725**).

In 2026, SB/SE published interim guidance that established a TFRP paperless system. On January 9, 2026, SB/SE issued SBSE-05-0126-0002, IRM Deviation for the use of the Virtual Trust Fund Recovery Penalty (VTFRP) Program, superseded by SBSE-05-0526-0041, IRM Deviation for the Use of Virtual Trust Fund Recovery Program, dated May 27, 2026, indicating the Automated Trust Fund Recovery (ATFR) system is being replaced with Virtual Trust Fund Recovery Penalty (VTFRP) system that calculates the trust fund, generates and stores letters/forms, and includes the revenue officer's history documentation, along with the Integrated Collection System's (ICS) history. The VTFRP will store the TFRP documents previously contained in the physical TFRP case file.

On May 13, 2026, SB/SE issued SBSE-05-0526-0039, Reissuance of Interim Guidance for Control Point Monitoring's Processing of Trust Fund Recovery Penalty Protest Cases, reissuing SBSE-05-0226-0009, Interim Guidance for Control Point Monitoring's Processing of Trust Fund Recovery Penalty Protest Cases. The guidance states SB/SE and CPM employees must scan the complete paper TFRP protest case file and transmit the converted digital file to Appeals electronically through the Appeals Electronic Case Receipts (AECR) SharePoint site. The paper case file will no longer be shipped to Appeals.

On February 20, 2026, Appeals issued AP-08-0226-0004, Appeals Case Management System (ACMS) procedure guidance for new IRM 8.20.16, Collection Closing Procedures, which updated APS functionality and process changes for the new case management system, ACMS, replacing ACDS.

Procedural Change: All new TFRP cases submitted to Appeals are paperless. On January 9, 2026, CEASO/CPM began transmitting the TFRP case files to AECR instead of sending a physical TFRP case file. The electronic data (paperless documentation) includes the same information previously included in the physical TFRP case file submitted to Appeals.

Any physical TFRP case file in Appeals' possession will be returned to CEASO/CPM after the TFRP case is closed. If the case is selected for Appeals Quality Measurement System

(AQMS) review, and the TFRP documents have not been uploaded to ACDS/ACMS, then the physical TFRP case file will be transmitted to AQMS, and AQMS will send the file to CEASO/CPM when their review is concluded.

This guidance updates the following items (see the attachment for complete details):

- All new TFRP cases are transmitted electronically to Appeals under a paperless system.
- Includes closed TFRP cases in the already established IRM 8.20.7.2.5, Electronic Case Closures (ECC), procedures.
- Requires the ATE to make a second attempt to contact the taxpayer/power of attorney before closing the TFRP case.
- The ATE/ATM will no longer mail the physical TFRP case file to APS for processing.
- Any remaining physical TFRP case file in Appeals' possession will be mailed to the CEASO/CPM group after the case is closed.
- The ATM will ensure the approved ACDS Form 5402, Appeals Transmittal and Case Memo, or ACMS 'Printable View' is emailed to *CEASO ADVISORY CPM.
- APS will process closed TFRP cases in ACMS in accordance with AP-08-0226-0004, Appeals Case Management System (ACMS) procedure guidance for new IRM 8.20.16, Collection Closing Procedures, and IRM 8.20.16 once published.

Note: The TFRP administrative case file includes the original SB/SE TFRP file, any related reference files, and any documents secured, or created, by Appeals. The ATE will send the entire TFRP administrative file to either AQMS or the CEASO/CPM Group in Fresno.

The attachment includes specific changes for APS, STARS, ATEs, and ATMs.

Effect on Other Documents: This guidance will be incorporated into new IRM 8.20.14, Carding New Collection Receipts, IRM 8.20.7, Examination and Specialized Examination Programs and Referrals (SEPR) Closing Procedures, IRM 8.20.16.10, Trust Fund Recovery Penalty (TFRP) Case Closing Procedures, and IRM 8.25.2, Working Trust Fund Recovery Penalty Cases in Appeals, within two years of 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

8.20.7.2.5 (MM-DD-YYYY)

Electronic Case Closures (ECC)

APS will follow the established procedures under ECC. The TFRP workstream/case type below will be added to the current table in IRM 8.20.7.2.5(2), Electronic Case Closures (ECC).

Case Type	Disposition	Required Documents
TFRP/TBOR2	All	<u>Form 5402</u> , Appeals Transmittal and Case Memo/ <u>Form 866</u> , Agreement as to Final Determination of Tax Liability, Appeals Case Memorandum (ACM), and appropriate closing letter (Letter 1536, Unagreed Employment Tax and Trust Fund Recovery Penalty – Closing, Letter 5123, TFRP Agreement Secured Closing, or Letter 5124, TFRP Non-Assertion - Closing)

8.25.1.1.5 (MM-DD-YYYY)

Terms and Acronyms

Add the following new term and acronym to the current table under (1).

Appeals Case Management System	ACMS
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8.25.1.5.2 (MM-DD-YYYY)

Effects of TBOR2 – Additon of Pre-Assessment Appeal and ASED Extension

Update paragraphs (5) and (6) and add new (7).

(5) The ASED, if it would have expired during the appeals process, is extended for 30 days beginning on the earlier of the date of the ATM's approval signature (the final administrative determination) on:

- The manager's approval screen
- Form 866, Agreement as to Final Determination of Tax Liability, or Form 906, Closing Agreement on Final Determination Covering Specific Matters, Closing Agreements

(6) Prior to the ATM entering an approval date on Appeals Case Management System (ACMS) for cases with a TBOR2 statute code, ensure the statute date correctly reflects the approval date plus 30 days, or the latest ASED (whichever is later), if not, have the ATE correct the statute date.

(7) For cases closed in ACMS, the ATE will need to input the earliest statute date in the remarks section during the 'submit for approval' process. The ATM should ensure that the approval signature dates on the closing documents, including Form 866, or Form 906, are identical to the date posted to ACMS.

8.25.2.1.1 (MM-DD-YYYY)

Background

Update paragraph (1).

(1) TFRP cases sent to Appeals are loaded onto ACMS for monitoring, and, if appropriate, Appeals' jurisdiction is established.

8.25.2.1.5 (MM-DD-YYYY)

Terms and Acronyms

Revise the table under (1) as follows:

Obsolete:

Case Activity Record and Timesheet	CARATS
Work Unit Number	WUNO
Case Activity Record	CAR

Add new:

Appeals Case Management System	ACMS
Case Action Record	CAR

8.25.2.2 (MM-DD-YYYY)

Receipt

Update paragraph (1).

(1) Within 45 calendar days of receipt of a newly assigned or transferred case, the ATE will take the following actions:

- Complete statute verification and initial case review as discussed below.
- Issue Letter 5157, Non-Docketed Acknowledgement & Conference, or make initial contact by telephone.

Note: If making initial contact by telephone, ensure the substance of the contact letter is discussed with the taxpayer and documented in the Case Action Record (CAR) on ACMS.

8.25.2.3 (MM-DD-YYYY)

TFRP Initial Statute Verification Requirements

Update paragraph (4).

(4) The completion of this review must be documented in the CAR, including any corrective action taken or initiated. Create a follow-up to ensure any requested corrective action has been taken.

8.25.2.3.2.2 (MM-DD-YYYY)

Timely Request – TBOR2 Protest

Update paragraph (5).

(5) The ASED is not suspended by TBOR2 if the protest is not timely. If the protest was received late, take the following actions:

- Close the case as a premature referral.
- In the remarks section of the E-5402, note “Due to untimely protest, the ASED is not suspended by TBOR2. Assessment of the TFRP is necessary. The ASED expires (enter date).”
- Change statute code from TBOR2 to CSED.
- Enter the earliest possible statute date on the appeal because the ASED date is no longer suspended by TBOR2.
- Inform the taxpayer/power of attorney that the case has been returned to Collection Advisory Collection Point Monitor (CPM) for assessment because the protest was not timely filed and, that after assessment, they can follow Form 843, Claim for Refund and Request for Abatement, procedures to contest the penalty.

8.25.2.3.5 (MM-DD-YYYY)

Periods in Appeal

Retitle section and update paragraphs (1) through (3).

(1) The TFRP statute review must include verification that the period(s) listed are correct.

(2) The details tab on ACMS must include all periods listed on the corresponding forms shown below:

Reminder: Verify that the proposed/assessed amounts for all listed periods are correct.

Type of TFRP Appeal	Form
Fast Track Mediation	N/A (no periods listed)
TBOR2 and Jeopardy Assessment	Form 2749
Claims and Reconsiderations	Form 843 or other requesting document

Exception: For TBOR2 appeals, if the taxpayer's protest clearly indicates a desire to protest only specific periods listed on Form 2751, Proposed Assessment of Trust Fund Recovery Penalty, and indicates agreement with the assessment of the other periods, follow steps listed in (3) below.

(3) To remove agreed periods from the appeal:

- Call the taxpayer/representative to verify the desire to appeal specific periods only. Ensure the taxpayer understands that Appeals will release jurisdiction on the periods not being appealed and Compliance will assess the taxes immediately and begin the collection process.
- Submit a support request to remove the periods not appealed from the case and create a new appeal number for the periods deleted from the original case.
- Update the statute code to CSED and input the earliest statute date.
- Close the second case as a premature referral.
- In the remarks section of the 'Printable View,' state "The taxpayer does not wish to protest the assessment of the following specific periods: (list periods here). Assessment of these periods is necessary. The ASER expires (enter date). Appeals retains jurisdiction of the following related periods: (list periods here)."
- The ATM will email the approved 'Printable View' document (or Form 5402) to *CEASO ADVISORY CPM and upload a copy of the email verification to the case.

8.25.2.3.6 (MM-DD-YYYY)

Statute Entries

Retitle section and update paragraphs (1) through (4).

(1) Appeals will not accept a TFRP case with a late protest unless the TFRP has been assessed and a claim filed. For all post-assessment appeals, verify that the assessment has been made.

(2) The statute entries for all TFRP cases are based on whether they are pre- or post-assessment appeals.

(3) Pre-assessment appeals should reflect the following statute information:

Subcategory - TFRP Pre-Assessment Protest	Statute Entries
Fast-Track Mediation Appeals	• Statute Code = <blank> (no periods are listed). • Statute Date = <blank>
TBOR2 Appeals - Timely filed protest*	• Statute Code = TBOR2 • Statute Date = <blank>

Note: *A case in which the taxpayer signed a Form 2750 falls within this category. However, since Appeals does not accept untimely TFRP protests, the Form 2750 would have to have been signed prior to the issuance of the Letter 1153 (DO).

Note: *A timely pre-assessed appeal based on 6020(b) returns (not signed by a Corporate Officer) also falls within this category. However, per IRM 8.20.5.29,

Substitute for Return (SFR) and IRC 6020(b) Case Carding, the statute code is SUB and there is a feature code of NF.

(4) Post-assessment Appeals: TFRP Jeopardy Assessment Reconsideration Requests, Claims, and Reconsideration Cases have the following statute entries on the CSC:

Subcategory - TFRP Claim for Refund	Statute Entries
• TFRP Jeopardy Assessment Reconsideration Request • Claims • Claim Reconsiderations	• Statute Code = CSED • Statute Date = the correct CSED date

Note: A taxpayer may ask Appeals to reconsider a TFRP refund claim disallowed by Advisory. A taxpayer must make this request within the period for bringing suit.

Note: See IRM 8.25.2.3.5, Periods in Appeal, for additional period information.

8.25.2.4.2 (MM-DD-YYYY)

Case Analysis – Evidence

Update note to (6).

Note: While the ARI is being worked, apply feature code “RI” (Referral investigation) and suspend the case in ACMS.

8.25.2.5 (MM-DD-YYYY)

Conference Guidelines

Update paragraph (8).

(8) In lieu of issuing Letter 5157, or other approved contact letter, the ATE may make initial contact by telephone. During such contact, the ATE must ensure that the substance of the contact letter is discussed with the taxpayer and documented in the CAR.

8.25.2.5.1 (MM-DD-YYYY)

No Response Cases (NEW)

(1) If a taxpayer does not respond to the Substantive Contact Letter (SCL), the ATE **must** make a second attempt to contact the taxpayer/power of attorney before the case can be closed. In such instances, the case history must reflect a minimum of two contact attempts.

(2) Letter 4000, Last Opportunity, is the preferred method for the second attempt to contact. If the second attempt is made by telephone, document this attempt in the CAR.

(3) For the second contact attempt:

- a. Give the taxpayer a reasonable and specific deadline to respond. Generally, allow 14 calendar days.
- b. Ask the taxpayer if he/she has any further information for consideration.
- c. Inform the taxpayer that Appeals must proceed with its determination(s) based on the information in the administrative file and other information the taxpayer previously provided if the taxpayer does not respond.
- d. The issuance of Letter 4000 does not preclude giving the taxpayer a second opportunity for a TFRP conference **if** the circumstances warrant.

(4) A well-documented administrative file with copies of all correspondence is critical.

8.25.2.6.4 (MM-DD-YYYY)

Closing Agreements

Update paragraph (7).

(7) If Appeals determines that the agreed upon settlement should be closed with finality:

- a. It is recommended Form 866, Agreement as to Final Determination of Tax Liability, is used for finality.
- b. Complete Form 866 by inserting the TFRP language into the body of the form:
 - **Taxable Period(s):** Calendar Quarter Ending March 31, 20YY
 - **Kind of Tax of Penalty:** Section 6672 Assessable Penalty
 - **Chapter Number and Subchapter Letter of Internal Revenue Code:** 68B, I.R.C.
- c. Document in the remarks section during the closing process and the ACM what closing agreement has been executed in the case (Form 866, Form 2751 or Form 2751-AD).

8.25.2.8 (MM-DD-YYYY)

Closing Actions for the Appeals Technical Employee (ATE)

Replace and renumber (1) through (10) as follows:

(1) The ATE working the case in ACMS will use the 'submit for approval' feature to close a case. The ATE working the case in ACDS will continue to use the customized Form 5402. The revised penalty section must include the trust fund penalty amount to be assessed (dollars and cents). The ATM will email the approved 'Printable View' document (or Form 5402) and the ACM to *CEASO ADVISORY CPM and upload a copy of the email verification to the case.

(2) The ATM will approve withdrawals and protests considered withdrawn due to the taxpayer's failure to respond within 30 days to a request to perfect a defective protest or defective power of attorney.

Note: For an ASER that expires in 30 days from the ATM's approval, the closing remarks section must include the statement to **Expedite the assessment**. The ATM

will also list the earliest statute date (ASED) in the email to *CEASO ADVISORY CPM and upload a copy of the email verification to the case.

(3) The closing remarks section contains optional remarks that provide direction for the receiving advisory CPM. The following remarks relate to specific types of pre-assessment appeal (TBOR2) closures:

If...	Then...
The protest was timely filed (TBOR2 case) and the ASED expires 30 days from the date of the ATM's signature on closing remarks or Form 866	In the remarks section, enter "Expedite - quick assessment required. ASED expires 30 days from the ATM's signature date."
The protest was timely filed (TBOR2 case) and the ASED expires more than 30 days from the date of the ATM's signature on closing remarks or Form 866	In the remarks section, enter "The ASED expires (enter date)."
The protest was not timely filed (the ASED is not suspended by TBOR2)	Close as a premature referral. In the remarks section, enter "Due to untimely protest, the ASED is not suspended by TBOR2. Assessment of the TFRP is necessary. The ASED expires (enter date)."
The taxpayer's protest clearly indicates a desire to protest only specific periods listed on Form 2751 and indicates agreement with the assessment of the other periods	In the remarks section, enter: "The taxpayer does not wish to protest the assessment of the following specific periods: (list periods here). Assessment of these periods is necessary. The ASED expires (enter date). Appeals retains jurisdiction under TBOR2 for the following related periods: (list periods here)."

(4) The ATM must verify the same earliest statute date is listed on ACDS/ACMS and on Form 5402/'Printable View'. If the true ASED is more than 60 days from the approval request, **it is recommended the earliest statute date be updated on ACDS before Form 5402 is generated by selecting the ACDS validation button to enter the statute date.** This will update the ACDS statute date and auto-populate the earliest statute date on Form 5402 when the form is generated. The ATE must manually update Form 5402/'Printable View' if the validation button is not used.

Note: When validation is used to update the statute date, it will also override the statute date that normally adds 30 days from the ATM's ACAP date.

(5) The ATE working the case will complete the customized Form 5402/'Printable View' for each responsible person.

(6) The Form 5402/'Printable View' revised penalty section amount cannot be rounded. The ATE must include the exact dollars and cents that are to be assessed per tax period.

(7) Verify the Form 5402/'Printable View' resolution reason and the revised penalty sections are accurate. For example, if the resolution is to sustain the proposed penalty, then the revised penalty section must include the exact dollars and cents that are to be assessed per tax period.

(8) The ATE will only enter Expedite in the remarks section of Form 5402/'Printable View' when the earliest statute date expires 30 days from the ATM's ACAP date.

(9) Once the ATM approves Form 5402/'Printable View' and inputs the ACAP date, the ASER is no longer suspended by TBOR2. The statute will be updated to 30 days after the approval date unless the ATE validated a later ASER as noted in (4). The ATE **must verify** that ACDS/ACMS and Form 5402/'Printable View' include the same earliest statute date.

Note: Once the ATM approves Form 5402/'Printable View' and signs the required closing documents, the ATM does not have to wait for APS to input the closing actions. The ATM can immediately transmit the approved Form 5402/'Printable View' to *CEASO ADVISORY CPM, upload a copy of the email verification to the case, and mail the closing letter to the taxpayer.

(10) Take the following actions when closing a TFRP case:

When closing...	Then...	...and
An Agreed TBOR2 case Note: All pre-assessment TFRP appeals where the taxpayer signed the Form 2751, Form 2751-AD, or Form 866.	Select closing code 03, Agreed, and the appropriate Resolution Reason Description on the customized Form 5402 or enter the description in the remarks section of the 'Printable View'. Place an original Form 2751, Form 2751-AD, or Form 866, agreement in the Collection file. An original copy goes to the Appeals Agreement Reviewer for storage.	Use Letter 5123, TFRP Agreement Secured Closing. Include an original copy of the agreement form.
An Unagreed TBOR2 case	Select closing code 13, Unagreed, and the appropriate Resolution	Use Letter 1536, Unagreed Employment Tax and Trust Fund Recovery Penalty -

When closing...	Then...	...and
Note: All pre-assessment TFRP appeals (except premature referrals), where the taxpayer does not sign an agreement. Note: This includes withdrawals and protests considered withdrawn due to the taxpayer's failure to respond within 30 days to a request to perfect a defective protest or defective power of attorney.	Reason Descriptions on the customized Form 5402 or enter the description in the remarks section of the 'Printable View'.	Closing, or, for pre-assessment cases considered withdrawn, prepare a letter to the taxpayer explaining that the protest is considered withdrawn and why. For withdrawals and protests considered withdrawn, the letter can be signed by the ATE.
Full concession TBOR2 case	Select closing code 13, Unagreed, and the appropriate Resolution Reason Descriptions on the customized Form 5402 or enter the description in the remarks section of the 'Printable View'.	Use Letter 5124, TFRP Non-Assertion – Closing, for unagreed, full concession cases.
Any TFRP case as a premature referral (to include untimely protests and TBOR2 protests when the underlying business liability is satisfied prior to Appeals working the case)	Select closing code 20, Premature Referral, and the appropriate Premature Referral Resolution Reason Description on the customized Form 5402 or enter the description in the remarks section of the 'Printable View'. Update the statute code to CSED and input the earliest statute date.	Inform the taxpayer/power of attorney by telephone or letter that the case was returned to Collection and the reason for the return.
A formal TFRP claim or reconsideration disallowed in full	Select claim closing code 14, Full Disallowance, and the appropriate Resolution Reason Description on the customized Form 5402 or	For a claim, use: Letter 1364 , Appeals Full Disallowance of Refund Claim - Certified. For a claim reconsideration, use: Letter

When closing...	Then...	...and
	enter the description in the remarks section of the 'Printable View'.	2681 , Appeals Full Disallowance After Previous Claim Disallowance
A formal TFRP claim or reconsideration allowed in full	Select claim closing code 15, Full Allowance, and the appropriate Resolution Reason Description on the customized Form 5402 or enter the description in the remarks section of the 'Printable View'	For both a claim and a claim reconsideration, use: Letter 2682 , Appeals Full Claim Allowance
A formal TFRP claim or reconsideration that is partially allowed	Select claim closing code 16, Partial Allowance, and the appropriate Resolution Reason Description on the customized Form 5402 or enter the description in the remarks section of the 'Printable View'	For a claim, use Letter 1363 , Appeals Partial Disallowance of Claim - Certified. For a claim reconsideration, use Letter 2683 , Appeals Partial Disallowance After Previous Claim Disallowance

(11) Appeals' general statute requirements in IRM 8.21, Appeals Statute Responsibility, are applicable to TFRP cases. Advise your ATM when closing any short statute case in which the statute will expire within 60 days.

(12) For TBOR2 TFRP cases meeting the large dollar criteria of IRM 4.4.18, Large Dollar Cases, refer to IRM 8.2.1.10.1, Expedite Processing for Certain Large Dollar Cases, and follow applicable expedite procedures.

Note: A case meets the large dollar criteria, if the total amount of a period's "agreed and unpaid deficiency" plus penalties (or overpayment plus penalties) exceeds \$100,000.