



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, DC 20224

SMALL BUSINESS/SELF-EMPLOYED DIVISION

January 9, 2026

Control Number: SBSE-05-0126-0002

Expiration Date: 01/09/2028

Affected IRMs: 5.7.3, 5.7.4, 5.7.5, 5.7.6, 5.7.7.

MEMORANDUM FOR: Director, Field Collection, Central Area
Director, Civil Enforcement Advice and Support Operations

FROM: Thomas Kramer Thomas D. Kramer
Director, Collection Policy

Digitally signed by Thomas D. Kramer
Date: 2026.01.09 13:51:15 -08'00'

SUBJECT: IRM Deviation for the use of the Virtual Trust Fund Recovery Penalty (VTFRP) Program

Purpose: The purpose of this memorandum is to implement a temporary deviation in accordance with Internal Revenue Manual (IRM) 1.11.2.2.4, *When Procedures Deviate from the IRM*, to provide guidance to Central Area Field Collection on the use of VTFRP for processing Trust Fund Recovery Penalty (TFRP) cases.

Background: Collection's legacy Automated Trust Fund Recovery (ATFR) system is being replaced by the Virtual Trust Fund Recovery Penalty (VTFRP) program within the Enterprise Case Management (ECM) platform. VTFRP provides Collection with a new level of automation, seeks to streamline the TFRP assessment process, provides a centralized, digital platform for case file management and eliminates the need to print or transfer files between stakeholders and to other storage locations.

Source of Authority: The TFRP is a penalty imposed by IRC 6672 against any individual or business entity required to collect, account for, and pay over taxes held in trust, who willfully fails to perform any of these activities. It facilitates the collection of tax and enhances voluntary compliance. The TFRP serves as an additional means of collecting unpaid trust fund taxes. The penalty is equal to the total amount of tax evaded, not collected, or not accounted for and paid over.

26 U.S.C. 6672(b), Failure to Collect and Pay Over Tax, or Attempt to Evade or Defeat Tax.

Procedural Change: The following procedural changes apply to revenue officers (RO) and group managers (GM) involved in the TFRP process. These changes support the implementation and use of the VTFRP program and are effective upon its deployment. The

updates align with the IRS modernization goals for digital records management, in accordance with 36 CFR Part 1236, NARA guidelines, the Internal Revenue Service (IRS) Paperless Processing Initiative, and applicable IRS recordkeeping and safeguarding requirements.

Effective Date and Effect on Other Documents: This interim guidance is effective immediately. This deviation from IRMs 5.7.3, 5.7.4, 5.7.5, 5.7.6, and 5.7.7 will remain in effect until January 09, 2028, unless it is superseded in the interim.

Contact: If you have any questions regarding the guidance in this memorandum, you may contact Acting Employment Tax Program Manager, Matthew Brody, or a member of your staff may contact Employment Tax Program TFRP Analyst Mindy Murphy. Field Collection and CEASO employees should direct all questions through their local management chain.

Distribution:

Director, Collection
Deputy Director, Collection
Director, Quality and Technical Support
Director, Collection Appeals
Director, Case and Operations Support
Taxpayer Advocate Service
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IGM# SBSE-05-0126-0002 Attachment – List of Impacted IRMs

Purpose

This attachment identifies Internal Revenue Manual (IRM) sections affected by implementation of the Virtual Trust Fund Recovery Penalty (VTFRP) program. Unless otherwise noted, all subordinate subsections listed are superseded or supplemented by this interim guidance.

Note: Throughout the applicable IRMs, all references to ATFR will be replaced with **VTFRP** and as of the effective date of this IGM, all references to the “TFRP Case File” pertain to the (electronic) *Case Documents File* within the VTFRP program; physical TFRP case files will no longer be used as of the effective date of this IGM. Only those IRM subsections whose procedures have changed as a result of ATFR’s replacement by VTFRP, are listed herein. Changes are reflected in **bold type**.

5.7.3 , Establishing Responsibility and Willfulness for the Trust Fund Recovery Penalty (TFRP)

5.7.3.3 (MM-DD-YYYY)

Virtual Trust Fund Recovery Penalty (VTFRP) Program

(1) The Virtual Trust Fund Recovery Penalty (VTFRP) program is an electronic program on the Enterprise Case Management (ECM) platform designed to enhance efficiency, streamline workflow and eliminate the paper processes involved with building, mailing, storing, and retrieving paper case files associated with the TFRP program. Additionally, the program is used to control TFRP case inventories, initiate TFRP-related actions and correspondence, transmit timely protests to Appeals and finalize the assessment of the TFRP.

(2) VTFRP was rolled out in January 2026 and will assist collection employes working trust fund cases, as follows:

- Systemically download from **ICS** the business master file name, address, and tax period data to establish a case
- Manually add cases assigned on ICS that did not upload to **VTFRP**
- Control TFRP case inventories
- Calculate the TFRP
- Monitor assessment statute expiration dates (ASED) and case action dates,
- Make recommendations regarding assertion and non-assertion of the penalty
- Systemically generate and control managerial approvals
- Generate required forms and letters
- **Store TFRP case file documents for electronic transmission and permanent record retention**

(3) The program has different levels of authority based on the user types. When requesting an entitlement through BEARS, be sure to request the appropriate version of the program, based on your position and duties. The user types include:

- **RO User**
- **GM User**
- **Business Administrator (BA) User**

(4) Cases must be worked on the **VTFRP** system whenever possible. This ensures that the correct means of calculation and the current procedures have been followed in case processing, and that systemic records **of the determination and assessment** are created. **Where ATFR was not capable of completing certain actions, (e.g., TFRP assessments for excise taxes) and required manual assessment if certain criteria were met, VTFRP is able to perform all TFRP-related functions, requiring manual assessments for certain circumstances only.**

Note: **Removed – no longer applicable**

5.7.3.3.1 (MM-DD-YYYY) Monitoring TFRP Cases

(1) VTFRP assists ROs with the timeliness monitoring and completion of TFRP case actions such as:

- **Reviewing cases for imminent statute concerns**
Note: A case with an imminent statute is one with less than one year remaining on the ASED.
- **Calculating the TFRP for delivery to the taxpayer** during initial contact (**VTFRP TFRP calculation sheet**)
- **Tracking the status of the determination** on whether to pursue the TFRP **or not, as required** within 120 calendar days **of the balance due case assignment on ICS**
- **Ensuring Form 4183, Recommendation re: Trust Fund Recovery Penalty Assessment, is submitted for GM approval** within 120 calendar days, **of the date the determination to pursue was input in VTFRP.**
- **Ensuring issuance of the Letter 1153, Proposed Trust Fund Recovery Penalty Notification, within 20 calendar days** of the Form 4183 approval
- **Ensuring assessments are initiated on completed recommendations within 30 calendar days of the Letter 1153's required response period expiration.**
(See IRM 5.7.6.2.1(1), *No Response (Unagreed) Cases*)
- **Allowing for updating of the TFRP calculation, as needed**

(2) GMs use the VTFRP system to approve RO case actions and review status reports monthly (See IRM 1.4.50.11, Group Controls and IRM 5.7.3.1.4 above, for guidance regarding monitoring timely TFRP actions as follows:

- Monitor the period within which the RO must determine whether to pursue the TFRP (Pending Determination Report)
- Monitor the timely approval of Form 4183 (Pending 4183 Report)
- Monitor the issuance of Letter 1153 following approval of Form 4183 (Pending 1153 Report)
- Determine if imminent statute cases have been addressed (VTFRP ASED Report)
- Monitor timely **initiation of TFRP assessments in VTFRP (Timely Assessment Report)**

(3) The capabilities within VTFRP have revised the responsibilities for Control Point Monitoring (CPM) employees. CPM Employees use VTFRP to continue to:

- Monitor cases assigned to the Independent Office of Appeals (Appeals)
- Set the final case disposition for cases returned from Appeals

5.7.4 , Trust Fund Compliance, Investigation and Recommendation of the TFRP

5.7.4.2.5 (MM-DD-YYYY)

Third Party Interviews and Third Party Contact Considerations

(2) ROs may secure authorization from potentially responsible person(s) to waive the 45-day waiting period by securing the potentially responsible person's signature on Form 12180, *Third Party Contact Authorization Form*. This authorization applies **only** to the third parties listed on Form 12180 and **only** waives the advanced notice periods for the potentially responsible person who signed it (multiple forms may be secured, if necessary). Therefore, if the RO intends to issue a bank summons for core documentation, they must list the bank's full name, address and telephone number on the form. **Form 12180 is available from the ICS templates and copies of executed forms should be retained in the corporate case file and uploaded to the case documents file within VTFRP.** See IRM 25.27.1.3.6, *Taxpayer Authorizes Contact with a Third Party*, for reference.

5.7.4.2.6 (MM-DD-YYYY)

Courtesy Investigation

(4) The receiving office will:

- a. Initiate all appropriate correspondence, conduct the necessary interviews, and secure Form 4180, *Report of Interview with Individual Relative to Trust Fund Recovery Penalty or Personal Liability for Excise Taxes*.
- b. Ensure compliance with third party notice requirements.
- c. Secure Form 433-A, *Collection Information Statement for Wage Earners and Self-Employed Individuals*.
- d. Secure waivers (IRM 5.7.3.7.1, *Form 2750 Waiver*), if appropriate.
- e. Secure the responsible person's signature on Form 2751 if the responsible person agrees to the assessment following the guidelines in IRM 5.7.4.2.4(10), *Form 4180*.
- f. Secure **all TFRP case** file documentation **including** sources of income, assets, and all **other substantiation needed** for the initiating RO to make an **appropriate** recommendation for assertion or nonassertion of the TFRP, including nonassertion due to collectability. **See IRM 5.7.5.4.1, Nonassertion Based on Collectability, for additional information.**
- g. Close the courtesy investigation and submit the documentation to the initiating office **electronically**, for the TFRP determination to be completed. **Any documentation secured in paper form must be digitized and forwarded to the initiating office electronically.**

5.7.4.3 (MM-DD-YYYY)

Calculating the TFRP

(3) The **VTFRP** system should be used to calculate the TFRP balance, **whenever possible**. The system interfaces with IDRS and receives all open trust fund modules with **outstanding balances** when it's calculating the trust fund **portion of the liability**. **Pre-assessed tax periods and local payments can also be added into the system for consideration during a calculation or recalculation request.** Although a calculation of the trust fund

balance is required within 55 days of the case assignment, VTFRP may be used repeatedly and at any time during the investigation to determine the current outstanding trust fund balance.

(4) The following TFRP assessments should be processed on VTFRP:

- Form 720, ***Quarterly Federal Excise Tax Return*** – TFRP is the sum of the “ABST-NUM” 22, 26, 27, 28, and 140 which are found on the Form 720 TXMODA modules and correspond to the IRS number listed on Form 720. After subtracting any applicable credits/payments, the remaining balance equals the trust fund balance.
- Form 941, ***Employer's Quarterly Federal Tax Return*** - TFRP is equal to the amount of the employees' share of FICA and withholding.
- Form 943, ***Employer's Annual Tax Return for Agricultural Employees*** - TFRP is equal to the amount of the employees' share of FICA and withholding.
- Form 944, ***Employer's ANNUAL Federal Tax Return*** - TFRP is equal to the amount of the employees' share of FICA and withholding.
- Form 945, ***Annual Return of Withheld Federal Income Tax*** - TFRP is one hundred percent of the tax.
- Form 1042, ***Annual Withholding Tax Return for U.S. Source Income of Foreign Persons*** - TFRP is one hundred percent of tax.
- Form 8804, ***Annual Return for Partnership Withholding Tax (Section 1446)***, Please seek assistance from your Collection Automation Coordinator (CAC), if needed.
- Form CT-1, ***Employer's Annual Railroad Retirement Tax Return*** – TFRP is the sum of lines 4,5,6,7,10,11,12. Due to the different rates on Tier I versus Tier II, the VTFRP FICA and withholding amounts downloaded from IDRS will require adjustment. Please seek assistance from your Collection Automation Coordinator (CAC), if needed.

Note: Removed – no longer applicable

5.7.4.5 (MM-DD-YYYY)

Form 4183 Penalty Assessment Recommendation

(12) TFRP case files are assembled **electronically within the VTFRP system**. Document 9600-C, Document 9526, and Document 9728 tabs and submission of paper TFRP case files are no longer required.

5.7.4.6 (MM-DD-YYYY)

Manager's Review of Trust Fund Recommendations

(2) The GM must also review and approve any related Forms 9327 for nonassertion due to collectability prior to approving Form 4183. If the Form 9327, ***Nonassertion Recommendation of Uncollectible Trust Fund Recovery Penalty or of Uncollectible Personal Liability for Excise Tax***, is not approved, Form 4183 must be updated before it can be approved. **Conversely, if the GM approves Form 9327 for all RRP_s on the case, a case disposition for non-assertion due to collectability will not require approval; VTFRP will automatically accept the disposition based on the previously approved 9327.**

5.7.4.7 (MM-DD-YYYY)

Notification of Proposed Assessment

(2) Form 2751 will automatically be generated by VTFRP when the L1153 is generated. Issue Letter 1153 and Form 2751 together to each responsible party only, by either hand delivery or certified mail with return receipt requested, within 20 calendar days of the Form 4183 approval. The Letter 1153 generated through VTFRP will include the letter date, however documentation of the letter issuance on ICS, and input of the letter issue date on VTFRP is still required. Include Publication 1 when delivering Letter 1153 and Form 2751 to the responsible party(ies) (See (3) below for the recommended method of delivery). A copy of the VTFRP calculation page showing the penalty computation should also be included with the documents delivered to the responsible party(ies) so that they are aware of how payments were applied to the account. VTFRP will systemically upload the TC 130, Refund Freeze, to freeze any potential refunds when the Letter 1153 issuance date is input in VTFRP.

Reminder: If a responsible person or corporate entity pays the withheld tax (trust fund) liability in full **after** approval of Form 4183 and issuance of Letter 1153, the account must be reviewed after the payment posts to determine if input of TC 131, Reversal of the TC 130 Refund Freeze, is required. The TC 130 may remain appropriate on an individual account if there are additional pending TFRP assessments from a different business or related sole proprietor liabilities. **If appropriate, prepare Form 3177, Notice of Action for Entry on Master File, to request input of the TC 131 for release of any freeze on potential refunds for all parties determined to be responsible for the TFRP.**

(3) Letter 1153, *Proposed Trust Fund Recovery Penalty Notification*, is available in the Published Products Catalog however it should always be issued through VTFRP unless otherwise not possible. The letter 1153:

- Is issued for each responsible party found willful/responsible and notifies the responsible party of the proposed assessment
- Affords the responsible party the opportunity to agree or to appeal the proposed assessment
- Provides a description of the available appeal rights and instructions for filing
- Must be modified if the responsible party has filed a bankruptcy proceeding and the automatic stay is still in effect to delete any references to the IRS collecting the TFRP, any actions the responsible party should take to delay collection activity by the IRS, and any collections the IRS may take in jeopardy circumstances.

Caution: Do not use the Letter 1153 template in ICS unless you can confirm the revision is the most current available and includes an option for the alternative wording required when the responsible party has filed a bankruptcy proceeding.

(4) Form 2751, *Proposed Assessment of the Trust Fund Recovery Penalty*, is available in the Published Products Catalog however, it should always be issued through VTFRP. Form 2751 will systemically generate when the Letter 1153 is generated in VTFRP. The Form 2751:

- Provides a report of the business taxpayer's liability including the name/address of the business and the breakdown of the proposed TFRP assessment by quarter, listing each quarter for which the TFRP is proposed

- Allows the responsible party to agree to the proposed assessment and collection of the trust fund recovery penalty
- May be signed by the responsible party at any time during the TFRP investigation or after the IRS has issued the Letter 1153
- May be signed by a representative on behalf of a responsible party if Form 2848, *Power of Attorney and Declaration of Representative*, is executed by that responsible party and completed properly.

Note: Item 3 of the Form 2848 must say Trust Fund Recovery Penalty (TFRP) under “Description of Matter,” 2751 under “Tax Form Number,” and must list all periods proposed for assessment of the TFRP under “Year(s) or Period(s).”

Caution: Do not treat a signed Form 2751 as a conclusive waiver until the 60 or 75-day appeal period (plus five additional days for mailing) has expired. A responsible party may change their mind after signing the Form 2751. A responsible party’s signature on Form 2751 does not extinguish their appeal rights.

5.7.4.8.1 (MM-DD-YYYY)

Considerations for In-Business Installment Agreements

(5) When an in-business trust fund (IBTF) installment agreement is granted, and the TFRP is not being assessed, **the Form 3210 generated and forwarded with the IA to Centralized Case Processing (CCP) where the agreement is being monitored must be labeled to indicate “Unassessed TFRP – IBTF-IA Backup Documents – Earliest ASED is {insert date} and that the TFRP case file documents can be secured from the Case Documents File within VTFRP. Upload a copy of the Form 3210 to VTFRP and document the ICS case history indicating the TFRP information was forwarded along with the IBTF-IA documents. Refer to IRM 5.14.7.4, *In-Business Trust Fund Installment Agreements Requiring Financial Analysis and Determining Ability to Pay*, for additional information on processing and monitoring these cases.**

Note: While under an approved installment agreement, a **business** may not designate its monthly installment payment be applied to the trust fund portion of the tax (See IRM 5.14.7.5, *Payments on Trust Fund Accounts During Approved In-Business Trust Fund Installment Agreements*).

Exception: The instructions in para (5) only apply when the TFRP case originated in VTFRP. TFRP cases that were initiated in ATFR, prior to the rollout of VTFRP, will still have physical case files that will be sent to CCP along with the IBTF installment agreement.

5.7.5, *Trust Fund Compliance, Collectability Determination*

5.7.5.4.2 (06-28-2011)

Assertion with Pre-Assessed Form 53

(1) If the present collection potential is minimal, **or a hardship currently not collectable (CNC) criteria is present**, but future collection potential exists:

- a. Recommend assertion of the TFRP for GM approval

- b. Advise the responsible **party** that one notice will be sent reflecting the balance due, and a NFLT will be filed, if appropriate.
- c. Prepare Form 53, *Report of Currently Not Collectible Taxes*, for the TFRP (enter a mandatory follow-up date in item 22 if appropriate).
- d. Forward the entire package through the GM for Form 53 approval.
- e. Document the ICS case history.
- f. Process the TFRP assessment per IRM 5.7.6.2, *Responsible Person's Response to Letter 1153*. Process the currently not collectible file per IRM 5.16.1.2, *Currently Not Collectible Procedures*.

Note: Please see IRM 5.16.1.4, *Requesting Currently Not Collectible Input for Assessed and Pre-assessed Tax Periods*.

5.7.6, Trust Fund Compliance, Trust Fund Penalty Assessment Action

5.7.6.7 (MM-DD-YYYY)

Receipt of Protest

(3) The responsible **party** is not entitled to appeal the proposed TFRP if they did not file a timely protest. Refer to instructions contained in IRM 5.7.6.2, *Responsible Party's Response to Letter 1153*, to determine whether the protest is timely. If the responsible party's protest is **not** timely, the employee handling the proposed TFRP assessment will:

- 1. contact the responsible party to notify them that their protest was late, and the IRS will proceed with assessment of the TFRP.
- 2. advise the responsible party that they may file Form 843, *Claim for Refund and Request for Abatement*, once the TFRP has been assessed.
- 3. **not** transmit the case to appeals.
- 4. **complete the assessment process in VTFRP**.

Note: The receipt of a protest determined to be untimely must be documented in the ICS & VTFRP case history, along with confirmation and acknowledgment of the actions 1 through 4 above. A copy of the protest, stamped with the received date and including the original postmark information, must also be uploaded to VTFRP. Regardless of a determination that it was untimely, disregarding a protest without further acknowledgment or action is never appropriate or acceptable.

5.7.6.9 (MM-DD-YYYY)

Revenue Officer Disagrees With Protest

(1) If the information the responsible party submits does not change the **original** determination on the case, or if the responsible party protests the entire assessment and the **original determination is only changed in part, then:**

- 1. secure managerial concurrence of the decision in VTFRP by entering the responsible party's response to L1153, and the unchanged determination.
- 2. attempt to make telephone contact with the responsible party to explain the results of the additional investigation.
- 3. document the ICS & VTFRP history, notating if contact was made with the responsible

party and the details of the discussion.

4. proceed with recording of the response in VTFRP and systemic routing of the case to the GM if contact attempts with the responsible party were unsuccessful.

Note: Cases with more than one responsible **party** should include the name of the **protesting party in the ICS history**.

(2) Upon receipt of **systemic notification from VTFRP that the RO disagrees with the protest but was unable to make contact with the responsible party**, the GM will take the following actions:

1. Review the **Case Documents File** within VTFRP to determine if the assessment is fully supported and all the necessary documents **have been uploaded** and document this review action in ICS
2. Review the TFRP case file **documents** in VTFRP and ICS history to confirm that new information, if provided, has been sufficiently addressed and documented
3. If the new information requires additional investigation, the GM will return the **case to the RO for additional action**
4. If the new information has been sufficiently addressed and documented, and the RO was unable to make telephone contact with the responsible **party**, the GM will prepare Letter 1154-M, *Manager Notice of Protest of Trust Fund Recovery Penalty to be Forwarded to Appeals*, **directly through VTFRP** to the responsible **party**, identifying the new information with a brief summary of the results of the investigation
5. Document issuance of Letter 1154-M to the responsible **party** in the ICS history. **VTFRP will automatically retain a copy of the letter in the Case Documents File for the applicable protesting party when the letter is generated through VTFRP.**

(3) After GM approval, take the following actions:

1. Send Letter 1154 to the responsible party (**if L1154-M was not required/sent by GM**).
2. Click on **Transfer to CPM Queue – Appeals Monitoring**, in VTFRP.

Note: After initiating the **Transfer to CPM Queue – Appeals Monitoring** option as described in 2) above, the case assignment will be transferred from the RO's assignment to CPM's queue. CPM will monitor the case until Appeals has reached its determination and then proceed with finalizing the assessment accordingly. Both CPM and Appeals will refer to the Assessment Detail Report in the Case Documents File for the assessment information formerly provided on Form 2749.

Reminder: When more than one RRP is present on a case, the assessment/closure actions for each RRP will be addressed individually. If the case also includes a RRP that has not protested, VTFRP will provide the **Submit Recommendation for Assessment** option for the non-protesting RRP's case. See IRM 5.7.6.12, *Revenue Officer Assessment Actions*.

(5) The elimination of the physical case file means CPM will no longer be responsible for forwarding protested TFRP recommendations to Appeals. GMs will upload the protest-related documents to Appeals' Electronic Case Receipts (ECR) SharePoint site and forward the confirmation to CPM via email at ceaso.advisory.cpm@irs.gov, for monitoring of the protest status. To assist Appeals with the carding of the TFRP protest cases, employees will follow procedures outlined in AP-08-0724-0015, *Trust Fund Recovery Penalty (TFRP) Procedures Update*, and will submit the following:

- **Form 4183 including the 'TFRP Calculation Sheet'.**
- **Assessment Detail Report (Formerly Form 2749).**
- **Dated copy of Letter 1153, including a copy of the certified mail list (CML) and certified mail return receipt.**
- **Protest Documents (with postmark)**

Note: See IRM 5.7.6.10, *Transmittal of Case to Appeals*, for additional guidance

(8) When supplemental information is received by Collection, it must be reviewed for ex parte communications prior to providing it to Appeals. The new information, any other documents being sent to Appeals, and a copy of the letter sent by the GM must be uploaded to the VTFRP Case Documents File. Document the ICS history with the new information received, the issuance of the letter, and a list of the documentation sent to Appeals.

5.7.6.10 (MM-DD-YYYY) *Transmittal of Case to Appeals*

(1) It is Field Collection's responsibility to ensure all necessary documents, including the VTFRP and ICS case histories are contained in the VTFRP Case Documents file and the protest was received timely; there will be no subsequent check for completeness once the assigned RO initiates the assessment action. With the elimination of physical TFRP case files, Document 9708, *Trust Fund Recovery Penalty Case File Tabs (Appeals Cases)*, will no longer be used. Each protesting responsible party will have their own Case Documents file in the VTFRP case and each must contain all required documentation to support the assessment recommendation, including the pertinent documents from the business' Case Documents file as well as the documents specific to each protesting responsible party. See IRM Exhibit 5.7.6-1, *TFRP Case File Check Sheet*, to assist in case accuracy and completeness.

(2) GMs will no longer complete and sign the TFRP Case File Check Sheet. Review of the Case Documents file will be conducted by the GM prior to granting Form 4183 approval requests on VTFRP.

Note: All documentation pertaining to protests and in support of assessment recommendation must be uploaded to the Case Documents file in VTFRP before forwarding to GM for approval. Approval requests will be rejected by the GMs if the required documentation is not present, leading to unnecessary delays in case progression.

5.7.6.12 (MM-DD-YYYY)

Revenue Officer Assessment Actions

(1) Following completion of all confirmation-related prompts in VTFRP, an Assessment Detail Report will generate systemically. The report will be referred to as a replacement for the Form 2749 information.

(2) Before initiating the *Recommendation for Assessment* that will result in systemic input of the assessment on IDRS, review the report for comparison of the tax periods against IDRS, to make sure all applicable periods will be included in the assessment. Additionally, ensure the information from the Assessment Detail Report is accurate regarding:

- the tax periods listed. There should be no tax periods with zero trust fund balances.
- the entity information for business entity and RRP.
- bankruptcy. Ensure bankruptcy is appropriately listed for all applicable RRP when the bankruptcy indicator has been checked.

(3) Form 2750, *Waiver Extending Statutory Period for Assessment of Trust Fund Recovery Penalty*, if secured, must be uploaded to the Case Documents file and the new ASED information entered into VTFRP. Prior to uploading the Form 2750, ensure it has been signed and dated before the ASED expiration by both the responsible party (or authorized representative) and an authorized IRS delegate.

5.7.6.13 (MM-DD-YYYY)

Assessments on Tax Periods with Fewer than 30 Days Remaining on the ASEd

(1) Assessment of the TFRP must be initiated on VTFRP at least 30 days before the ASEd will expire for imminent ASEd cases. This will ensure the ASEd is protected and will allow for intervention, as necessary, in the case of unpostable transactions or other systemic issues.

(2) If a timely protest is received, do not initiate the assessment. CPM is responsible for initiating the assessment once Appeals' determination is final. Refer to IRM 5.7.3.7(2), *Impact of Letter 1153 on Assessment Statute*, and IRM 5.7.6.11, *Controlling and Monitoring Appeals Cases*.

Caution: If the ASEd has been extended under TBOR2, it will not expire before the 30th day after Appeals' "final administration determination." If less than 30 days remains, CPM will follow quick assessment procedures. See IRM 5.7.10.8(5), *Appeals Cases – Controlling and Monitoring*.

(3) Assessments on tax periods with fewer than 30 days remaining on the ASEd **may be made only after the responsible person takes one of the following actions:**

- Fails to respond to the Letter 1153 within the appropriate time period
- Completes the appeal process

Note: Do not treat a signed Form 2751 as a conclusive waiver until the 60 or 75-day restriction period (plus five additional days) expires, as a responsible person may change their mind after signing the waiver. A responsible person's signature on the Form 2751 does not extinguish their appeal rights.

(4) After expiration of the L1153 response period, (and the additional 5 days for mailing) review the ASED to confirm more than 30 days are available. If 29 or fewer days remain, the assessment cannot be initiated in VTFRP and quick assessment procedures will be required. Certain circumstances will warrant quick assessment procedures; the most common are:

- The ASED was extended by TBOR-2 for the time the case was pending in Appeals and under their jurisdiction (See IRM 5.7.6.13(2) above)
- Letter 1153 was properly mailed or delivered in-person just before the expiration of the ASED, extending it by 90 days from the L1153 issuance date
- The ASED will expire during IDRS Dead Cycles
- The assessment is not initiated timely in VTFRP due to assigned RO leave or other circumstance, and fewer than 30 days remain when case actions resume

Caution: Any circumstance resulting in a period of less than 30 days until the ASED is set to expire will require quick assessment procedures.

(5) Quick and prompt assessments may be submitted:

- Via EEFax to 855-295-5941
- Via Email to *CFO EEF OSPC ACO 303
- Through the Automated Form 2859 Portal

5.7.6.14 (MM-DD-YYYY) *Case File Documentation*

(4) VTFRP will create a separate Case Documents file for the business entity as well as each RRP present on a case. This allows for easy differentiating between the case documents and takes the place of the Key and Supplemental tab sets previously used.

5.7.6.15 (04-10-2023) *Retrieving TFRP Case Files*

(1) TFRP case files are maintained in the Case Documents file within VTFRP, by business case. At any time during the TFRP investigation or after assessment, the Case Documents file can be accessed to review and retrieve the electronic case file documents.

Note: If you are unsure where the assessment was made, contact the Centralized CPM site for assistance.

Reminder: CPM will maintain the paper case files for cases where Form 4183 was initiated in ATFR for two years after the assessment; requests for these case files should be submitted to the centralized CPM site in Fresno, CA. Files for TFRP cases assessed more than two years from the inquiry date can be retrieved from the Federal Records Center (FRC) where they are stored until 12 years have passed from the assessment date; this allows for the CSED plus two years for the responsible party to file a claim for refund. See IRM 1.15.4.9, *Requesting Records from the FRC*, for guidance on requesting records via Form 2275, *Records Request, Charge and Recharge*.

5.7.7 , Trust Fund Compliance, Payment Application and Refund Claims

5.7.7.5 (MM-DD-YYYY)

Claim for Refund

(5) CPM will determine the appropriate CEASO office based on the taxpayer's residence. Forward the Form 843 via email to CPM at *SBSE CEASO CPM MAIL, along with:

- Form 3210, *Document Transmittal*
- TFRP case file (Only for cases whose Form 4183 originated in ATFR. Cases originating in VTFRP will not have a physical case file)
- Any associated appeals or other applicable documents

Note: For TFRP assessments originating in VTFRP, CEASO will access VTFRP to secure the TFRP case file documents. Notate Form 3210 indicating "Electronic TFRP Case File located in VTFRP."

5.7.7.5.1 (MM-DD-YYYY)

CEASO Actions

(2) Open an ICS NF Other Investigation (OI) Action Requested 172 - Claim for Refund, to control the claim no later than 7 calendar days of receipt in the group. Check ICS for any prior claims or inquiries, review the closed files for any prior claims and document all actions taken on the claim in the ICS history.

Reminder: If the TFRP assessment originated in VTFRP, the TFRP case file will be electronic. Access the business case in VTFRP to secure the applicable case file documents for the RRP filing the claim.

(3) All actions taken on the claim will be documented in the ICS history including, but not limited to:

- Results of research and reviews
- Any correspondence issued to the claimant (date/letter number)
- Deadlines established for the claimant, consequences communicated and follow-up actions scheduled
- Claim determination(s) with explanation

Note: If a prior claim was rejected and the current claim provides no new information, notify the claimant in writing that the new claim cannot be considered. Explain their right to file suit was lost if it was not exercised timely following denial of the prior claim. Contact Special Counsel L&A for any questions regarding the claimant's right to file suit. Update the ICS history with the date the claimant was notified and the reason(s) claim was not processed.

(6) Retrieve the TFRP file(s) and review them to determine:

- If any basic procedural defects exist
- If sufficient file information exists to evaluate and respond to the issues raised
- Whether taxpayer rights have been protected, including those provided in The Taxpayer Bill of Rights, Pub 1, *Your Rights as a Taxpayer*, IRC 7602(c), IRM 5.7.4.2.5, *Third-Party Interviews and Third-Party Contact Considerations*, IRC 7609(a), IRM 25.5.6.4.1, *Procedures for Summons Issued to Investigate Liabilities for the Trust Fund Recovery Penalty*, and actions were documented in ICS and/or ATFR/VTFRP.

Note: If the TFRP balance due or the employer balance due accounts are assigned to an RO, identify that person and coordinate all actions and determinations with them.

Reminder: If the TFRP assessment originated in VTFRP, the TFRP case file will be electronic. Access the business case in VTFRP to secure the applicable Case Documents file for the RRP filing the claim.

5.7.7.5.1.1 (MM-DD-YYYY)

Incomplete TFRP Files

(2) Identify the specific additional documentation and/or corrective actions needed **and set a reasonable deadline for response**. If the specified deadline is missed, the CEASO employee will initiate a follow-up action no later than 10 calendar days of the missed deadline date.

Note: Forward the TFRP case file along with Form 3210 if the TFRP assessment originated in ATFR and a physical case file exists. If the TFRP assessment originated in VTFRP, the electronic case file records should be accessed from VTFRP, under the business case.

5.7.7.5.1.2 (MM-DD-YYYY)

Referral to Appeals and Fast Track Mediation (FTM)

(4) If referral to Appeals is appropriate, the RO will:

- a. **Document the ICS history to indicate Appeals referral is required,**
- b. Prepare and mail Letter 1154, *Notice of Protest of Trust Fund Recovery Penalty to be Forwarded to Appeals*, to the claimant, **and**
- c. **Upload L1154 to the Case Documents file in VTFRP under the TIN of the RRP who filed the claim.**

Note: If the TFRP assessment originated in ATFR and a physical TFRP case file was received from CEASO, add a copy of L1154 to the file and return it to CEASO for forwarding to Appeals.

5.7.7.5.3 (MM-DD-YYYY)

Claim Accepted

(1) CEASO will take the actions below if the claim is allowed. CEASO will take actions a, b, and c no later than 14 calendar days of the CEASO determination that the claim is allowed.

- a. Notify the taxpayer in writing (Letter 3782, *Letter Accepting TFRP Refund Claim*). If payments or credits not made within two years of filing of Form 843 are identified, these amounts may not be considered for refund (See IRC 6511(a)). In this circumstance, prepare a letter to notify the taxpayer of any funds moved to excess collections due to IRC 6511(a).
- b. Initiate action to release bond (IRM 5.6.1, *Collateral Agreements and Security Type Collateral*) to the taxpayer if taxpayer complied with the provisions of IRC 6672(c). (See IRM 5.7.7.5.2).
- c. Prepare Form 3870, *Request for Adjustment*, to adjust the TFRP account accordingly and forward to CCO for abatement action.
- d. Close the ICS NF OI control once Form 3870 is correctly processed and properly posted to IDRS.
- e. **A copy of the ICS/ATFR/VTFRP case histories documenting all actions should be uploaded to the Case Documents File in VTFRP, along with any correspondence sent to the taxpayer and the Form 3870 sent to CCP. If the TFRP is paper from an assessment originating in ATFR, then the case histories referenced above should be added to the physical case file.**
- f. Process the TFRP file based on the records retention schedule. (Refer to Document 12990, *Records Control Schedules (RCS) 29 - Collection*).

5.7.7.5.4 (MM-DD-YYYY)

Claim Denied — IRC 6672(c) Not Applicable

(1) CEASO will take the actions below if the claim is denied and the taxpayer did not take the actions outlined in IRM 5.7.7.5.2. CEASO will take actions a, b, and c no later than 14 calendar days of the CEASO determination that the claim is denied.

- a. Mail certified Letter 3784, *Letter Denying TFRP Refund Claim - IRC 6672(c) Not Applicable*, to indicate disallowance of the claim and to notify the taxpayer of the 2-year period to file a suit. Enclose Publication 3605, *Fast Track Mediation*, if appropriate (see IRM 5.7.7.5.1.2). Taxpayers should be instructed to mail appeals of denied claims to CEASO.
- b. Prepare and submit Form 4844, *Request for Terminal Action*, for input of TC 290 for \$0.00 (use blocking series 98) to establish a record of the claim denial on the taxpayer's account for future reference. Attach a copy of the denial letter to the input document.
- c. Establish a 60-day follow-up on ICS, pending receipt of an appeal.

Reminder: Letter 3784 only grants the taxpayer a 30-day period to request an Appeals conference. The 60-day ICS follow-up allows the IRS time to receive and process all timely mailed appeals.

- d. At the expiration of the 60 days, if a timely appeal has not been received, close the NF OI on ICS.

- e. **Upload a copy of the ICS history documenting all actions to the Case Documents File in VTFRP or the physical TFRP case file, along with a copy of the claim, Form 4844, and Letter 3784**
- f. Process **physical TFRP case files** based on the records retention schedule.

(2) CEASO will take the actions below if the claim is denied and the taxpayer submits a timely request for appeal:

- Document receipt of the appeal request in the ICS/VTFRP/ATFR histories with a statement that the taxpayer appeal was received on (date), and the case is being forwarded for managerial review prior to transmission to Appeals.
- Issue a letter advising the taxpayer that the case is being forwarded to Appeals.
- Forward the Form 843 to Appeals **electronically with Form 3210. Notate Form 3210 to indicate the TFRP case file documents can be secured from VTFRP, under the business TIN and the VTFRP Case ID subject to the claim.**
- Maintain the NF OI to monitor for the final Appeals decision.

Reminder: TFRP assessments that originated in ATFR will still have physical case files. In this case, attach Form 3210 and the 843 claim and forward the package to Appeals.

5.7.7.5.5 (MM-DD-YYYY)

Claim Denied — IRC 6672(c) Applies

(1) CEASO will take the actions below if the claim is denied and the taxpayer took the actions outlined in IRM 5.7.7.5.2. CEASO will take actions a and b no later than 14 calendar days of the CEASO determination that the claim is denied.

- a. Mail certified Letter 3783, *Letter Denying TFRP Refund Claim - IRC 6672(c) Applicable*, signed by the appropriate individual, to indicate disallowance of the claim and to notify the taxpayer of the 30-day period in which the taxpayer must bring suit under IRC 6672(c)(2) if they want to stop collection. Enclose Pub 3605 if appropriate. (See IRM 5.7.7.5.1.2). Taxpayers should be instructed to mail appeals of denied claims to CEASO.
- b. Establish a 30-day hold file and monitor the file to determine if a suit is filed timely (contact Area Counsel, if necessary, to make this determination).
- c. Follow the procedures in IRM 5.7.7.5.5(2) below, if the suit is not filed timely.
- d. If the suit is filed timely, the TC 520 will remain on the account to delay collection until the final resolution of the court proceedings and the taxpayer's claim for refund.
- e. Close the control on the inventory database at the end of the 30-day hold period.
- f. Associate the closed control file with the TFRP file.

Reminder: For TFRP assessments that originated in ATFR, maintain the physical TFRP file in the CEASO office for at least 45 days following issuance of the denial letter. If the taxpayer files an appeal late, then the TFRP file can be submitted to Appeals for their review more easily.

(2) If the suit is not filed timely, the bond, or other collateral, will be converted to satisfy the TFRP liability in accordance with the agreement. Request reversal of the TC 520 and process the bond or other collateral in accordance with procedures in IRM 5.6.2, *Maintenance*. Do not assign the balance due accounts to the field.

(3) CEASO will take the actions below if the claim is denied and the taxpayer submits a timely request for appeal:

- Document receipt of the appeal request in the ICS/VTFRP/ATFR case histories with a statement that the taxpayer appeal was received on (date), and the case is being forwarded for managerial review prior to transmission to Appeals.
- Issue Letter 1154 advising the taxpayer that the case is being forwarded to Appeals.
- Forward the Form 843 to Appeals **electronically with** on Form 3210, *Document Transmittal*. **Notate Form 3210 to indicate that the TFRP case file documents can be secured from VTFRP, under the business TIN and the VTFRP Case ID subject to the claim.**
- Maintain the NF OI to monitor for the final Appeals decision.

Reminder: TFRP assessments that originated in ATFR will still have physical case files. In this case, attach Form 3210 and the 843 claim and forward the package to Appeals.

Reminder: Due to ex parte communication rules, CEASO should not make any additional commentary in the ICS/VTFRP/ATFR case histories regarding the merits of the appeal and should not prepare any memorandum discussing the issues raised in the appeal.