



DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224

SMALL BUSINESS/SELF-EMPLOYED DIVISION

December 30, 2015

Control No. SBSE-04-1215-0057  
Expiration Date: December 30, 2016  
Affected IRM: 4.24.16

MEMORANDUM FOR: DIRECTOR, SPECIALTY EXAMINATION; ALL EXCISE FUEL TERRITORY MANAGERS; EXCISE FIELD GROUP MANAGERS; EXCISE FUEL COMPLIANCE OFFICERS; AND EXCISE FUEL COMPLIANCE AGENTS

FROM: Alfredo Valdespino */s/ Alfredo Valdespino*  
Acting Director, SB/SE Specialty Examination Policy

SUBJECT: Appeals Case Routing Procedures- Dyed Fuel Penalty Cases,  
Appeals Settlement Procedures

**Purpose:** Section 1, [Rev. Proc. 2001-33](#), informs taxpayer on requesting an administrative appeal, in part, for penalties imposed by section 6715 of the Internal Revenue Code. The prescribed Appeals disposal procedures, regardless of whether the Dyed Fuel Penalty was upheld or not, is to return the case file to the IRS office that proposed the penalty for closing actions. The purpose of this memorandum is to provide revised procedures regarding how dyed fuel penalty cases will be handled after an Appeals determination is made.

**Procedural Change:** The most significant procedural change pertains to Appeals no longer returning the case and its determination to the originating office for assessment and/or closure. Effective with the date of this interim guidance, Appeals will be responsible for all closing actions once a determination has been made. See attachment for further updates.

**Effective/Implantation Date:** This guidance is effective upon issuance and will be incorporated into the IRM 4.24.16, Excise Tax, Excise Fuel Compliance Report Writing, Case Processing and Appeals Procedures, prior to its expiration date.

**Contact:** For questions regarding this guidance, contact Darla Smith, Excise Fuel Policy Analyst.

**Attachment:** IRM 4.24.16.2.1

**cc:** [www.irs.gov](http://www.irs.gov)

**Attachment: Interim Guidance - Appeals Case Routing Procedures- Dyed Fuel Penalty Cases, Appeals Settlement Procedures;** effective December 30, 2015, for incorporation into IRM 4.24.16, Excise Tax - Excise Fuel Compliance Report Writing, Case Processing and Appeals Procedures.

#### 4.24.16.2.1

#### Appeals Case Routing Procedures for Penalty Cases

- (1) The group manager must notify the employee to re-open the case in IMS and update the disposal code to "07", once it has been determined that the case will be forwarded to Appeals.
- (2) Cases will be closed on ERCS to Technical Services, updated to status 21, updated to disposal code 07 and the appropriate Technical Services Code (TSC) must be entered for the Technical Services group in your area. See the TSC listing by area at My SBSE Technical Services contact page found at:  
<http://mysbse.web.irs.gov/examination/examorg/aboutfieldexam/technicalservices/contact/14354.aspx>
- (3) Cases will be mailed to appropriate Technical Services address based on the TSC code.
- (4) Form 3198, *Special Handling Notice for Examination Case Processing* must be completed as follows:
  - a) Check the "unagreed to appeals" box in the "Forward to Technical Services" section.
  - b) Check the "other" box in the "Forward to Technical Services" section. In this section, the following statement should be included: **Please forward this case to the appropriate Appeals Account and Processing Support office for assignment to a specially trained Excise Appeals Officer.**
- (5) Form 3210, *Document Transmittal* should include a statement that the case should be carded in and assigned to an Appeals Excise Cadre member.
- (6) Technical Services will send the case to the Appeals Account and Processing Support (APS) office by using the "Case Routing Addresses and Instructions" link posted on the Case Routing page on the Appeals website.
- (7) Cases must include the following:
  - a) Complete inspection file with statements regarding all facts made by the Fuel Compliance Agent or Fuel Compliance Officer, taxpayer and group manager;
  - b) If applicable, include relevant work papers indicating the number of gallons involved (i.e. fuel tank measurement), location of additional dyed fuel tanks, and confirmation of responsible party;
  - c) Computation of the penalty;
  - d) Results of the laboratory and field testing;
  - e) Record of all taxpayer contacts, including results of the informal appeal;
  - f) Prior inspections, both violation and non-violation, if available; and
  - g) Results of the informal appeal conference with the manager.

**4.24.16.2.2****Final Disposition of the Penalty Case File after the Appeal**

- (1) Appeals Processing Center (APS) will take all closing actions once a decision is reached by the Appeals Officer.
- (2) IMS will generate an email notification to the SB/SE Centralized Feedback mailbox. SB/SE will retrieve a copy of the Form 5402 and Appeals Case Memorandum (ACM) from IMS.
- (3) Fuel Policy will monitor the Excise mailbox for all settlements of dyed fuel cases.
- (4) Fuel Policy will upload any ACMs sent directly to the Appeals mailbox into the IMS case file.
- (5) Fuel Policy will provide copies of all ACMs to the Chief, Excise for dissemination to the territories/groups.