



APPEALS

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

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Affected IRMs: IRM 8.6.4
IRM 8.20.7

MEMORANDUM FOR APPEALS EMPLOYEES

FROM: John V. Cardone /s/ *John V. Cardone*
Director, Policy, Quality and Case Support

SUBJECT: Interim Guidance on Specific Dollar Settlements

Purpose: This memorandum provides interim guidance to implement specific dollar settlements for Appeals resolutions.

Background: [Policy Statement 8-48 \(Rev. 1\)](#) (approved by the Commissioner on June 2, 2016), states that Appeals may consider and accept proposals for "specific dollar" settlements. A specific dollar settlement is the settlement of a case for a percentage or stipulated amount of the tax in controversy that approximates the amount that would have been reached by computing the tax.

Procedural Change: The attachment provides guidance for the specific dollar settlement procedures.

Effect on Other Documents: The specific dollar settlement procedures will be incorporated into IRMs 8.6.4, *Conference and Settlement Practices, Reaching Settlement and Securing an Appeals Agreement Form*, and 8.20.7, *Closing Procedures*, within 2 years of the issuance date of this memorandum.

Effective Date: This interim guidance is effective immediately.

Contact: If you have any questions, please follow the existing procedures for submitting questions to the TPP I SharePoint site.

cc: www.irs.gov

Interim Guidance for Specific Dollar Settlements

**8.6.4.1.3 (MM-DD-YYYY)
Specific Dollar Settlements**

(1) Policy Statement 8-48 (Rev. 1) states that Appeals may consider and accept proposals for “specific dollar” settlements. See IRM 1.2.17.8.

(2) A specific dollar settlement is the settlement of a case for a percentage or stipulated amount of the tax in controversy that approximates the amount that would have been reached by computing the tax.

(3) Specific dollar settlements are appropriate when:

- The case is a small tax case. The term “small tax case” means a non-docketed or docketed case that would qualify for “S” case procedures, if docketed.
- There are nonrecurring issues.
- The settlement only affects years under Appeals’ jurisdiction.
- There is a single entity/taxpayer.

(4) Specific dollar settlements are not appropriate in cases involving issues affecting prior or subsequent tax periods not included in the settlement, such as adjustments to depreciation/depletion, carryovers, carrybacks, or other reoccurring issues.

(5) The following is a list of some of the issues where a specific dollar settlement would not be appropriate:

- Earned Income Credit (EIC) banned for 2 years
- Adjustments to Self-Employment (SE) tax
- Passive activity and carryovers/carrybacks
- Contributions carryovers
- Capital losses and carryovers/carrybacks
- Net operating losses and carryovers/carrybacks
- Depreciation/depletion
- Employment taxes
- Affordable Care Act (ACA) Marketplace provisions (Premium Tax Credit and the Shared Responsibility Payment)

Example: In a simple one-year case where the hazards indicate several issues might be resolved overall for 60% in favor of the government and 40% for the taxpayer, the Appeals Officer could take the amount of tax at issue in the RAR and split it 60/40. In this specific dollar settlement, the taxpayer would be charged with 60% of the proposed deficiency.

Example: In a multiple year case where the negligence penalty was asserted on the treatment of Schedule C business expenses and the business no longer exists, the Appeals Officer could propose a specific dollar settlement. The penalty issue is nonrecurring and a specific dollar settlement may be appropriate.

(6) The Appeals Officer should explain to the taxpayer and in the ACM his/her rationale for using a specific dollar settlement.

(7) Prepare Form 5402, *Appeals Transmittal and Case Memo*, with special instructions:

- a) Include this statement: **THIS IS AN APPEALS SETTLEMENT FOR A SPECIFIC DOLLAR AMOUNT. THERE IS NO AUDIT STATEMENT OR SCHEDULE OF ADJUSTMENTS, AND THE CHANGE TO AGI AND TXI CAN'T BE DETERMINED.**
- b) Include the tax settlement amount.
- c) Include the penalty settlement amount, if any.

(8) If a Statement of Account and/or an IRC 6404(g) and/or May Sequa worksheet(s) is needed, submit the case to TCS. Refer to IRM 8.2.1.9, *Requesting Work from Tax Computation Specialist*, for the procedures for requesting TCS assistance.

(9) Do not provide Form 5403, *Appeals Closing Record*, instructions to APS. APS will follow guidance in IRM 8.20.7.7, *Form 5403 Instructions to APS Worksheet*.

(10) Submit the case to the ATM for approval.