



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
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MEMORANDUM FOR APPEALS EMPLOYEES

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

SUBJECT: Interim Guidance on Closing Procedures in Collection Cases

This memorandum issues guidance to Appeals employees regarding closing procedures in the collection work streams described in the attachment until all applicable Internal Revenue Manual sections are updated. Please ensure that this information is distributed to all affected employees within your organization.

Purpose and Background: Internal Revenue Manual (IRM) 8.22.5.9.1 authorizes Appeals Technical Employees (ATEs), generally an Appeals Account Resolution Specialist (AARS), to close Collection Due Process (CDP) and Equivalent Hearing (EH) cases without managerial approval where the taxpayer's request was untimely made. This guidance clarifies IRM 8.22.5.9.1(3) to state that Form 5402 does not require an Appeals Team Manager's (ATM) signature in CDP or EH timeliness determinations.

IRM 8.22.9.5.3 authorizes ATEs, including AARSs, to execute waivers in CDP cases where In Business Trust Fund-Express, Streamlined or Guaranteed Installment Agreements are secured and cases where innocent spouse relief is granted in full. This guidance authorizes ATEs to execute waivers in CDP cases where no issues remain for Appeals consideration after a penalty appeal request is granted in full, Collection accepts an Offer in Compromise (OIC), or the taxpayer is granted an extension of time to pay under IRM 8.22.7.6.

IRM 8.22.9.5.4 authorizes ATEs to close withdrawn CDP requests without managerial approval. This guidance authorizes ATEs to close withdrawn requests in EH, OIC, Collection Appeal Program (CAP) and Trust Fund Recovery Penalty (TFRP) cases.

Procedural Change: The attachment to this memorandum provides guidance to all Appeals employees in the affected work streams.

IRM subsections affected by these changes are listed above and in the Attachment.

Effective Date/Effect on Other Documents: This guidance becomes effective on the date of this memorandum and will be incorporated into the Internal Revenue Manual (IRM) within two years from the date of this memorandum.

Contact: If you have any questions, please send them to the [TPP FAQ - All Items](#) site following established procedures.

Attachment

cc: www.irs.gov

**Table of Contents – IRM 8.22
Collection Due Process**

The below listed IRM sections authorize ATEs to take certain actions in CDP cases.

IRM Section	Title	Page Number(s)
8.22.5.9.1	AARS CDPTD Closing Procedures	52 and 53
8.22.9.5.3	Letter 4382 Waiver Acknowledgement	7
8.22.9.5.5	EH Decision Letter	8

8.22.5.9.1

AARS CDPTD Closing Procedures

(3) Procedures for CDPTD paperwork:

- a. Provide copy of Form 5402 to ATM for entry of ACAP date on ACDS.
Note: There is no need for an ATM signature on the form.
- b. Provide copy of Form 5402 to APS to close case on ACDS
- c. Fax all documents back to originator

Note: Refer to IRM 8.22.5.2.4(6) for more information.

8.22.9.5.3

Letter 4382 Waiver Acknowledgement

(4) Letter 4382 is signed by the ATM with the following exceptions noted below.

Delegation Order App-193-1 allows Appeals Officers, Settlement Officers or Account Resolution Specialists to sign Form 12257 and Letter 4382 when either:

- IS is the sole issue and relief is granted in full leaving no remaining issue for Appeals consideration
- Collection is the sole issue, which is resolved by a IBTF-Express, Streamlined or Guaranteed IA
- Penalty appeal is the sole issue and relief is granted in full, leaving no remaining issue for Appeals consideration
- Collection accepts a taxpayer's Offer in Compromise, leaving no issues for Appeals consideration
- The taxpayer is granted an extension of time to pay following IRM 8.22.7.6 and there are no other issues for Appeals consideration

(5) The hearing officer signing the Form 12257 and Letter 4382:

- a. Emails the case resolution to the ATM so the ATM can enter the ACAP date on ACDS
- b. Enters "N/A- D.O. App-193-1" in the Form 5402 signature block
- c. Sends the closed case to APS for processing

8.22.9.5.5
EH Decision Letter

(1) At the conclusion of an EH hearing, prepare one of the following decision letters in APGolf:

- [Letter 3210](#) in most instances, or
- Combination [Letter 4439](#) where IS was raised
- Combination [Letter 4440](#) where Abatement of Interest was raised
- [Letter 4300](#) where the case was resolved in Bankruptcy Court
- Letter 5145 for agreed EH decisions

(2) Decision Letters contain a Summary Statement at the bottom of the letter which:

- a. Briefly states whether the disputed collection action is sustained or not

Example: "The issuance of the Notice of Intent to Levy was proper. The levy action proposed by the Revenue Officer is sustained"

- b. Describes any conditions that might result in future enforced collection action

Example: "Your request for an installment agreement is granted. Failure to meet the terms of the agreement may result in collection action."

(3) If a CDP liability is paid and the taxpayer doesn't withdraw the request, you still must issue a decision Letter.

(4) Appeals Officers, Settlement Officers and Account Resolution Specialists may sign Letter 5145, Agreed Equivalent Hearing Closing Letter, when:

- IS is the sole issue and relief is granted in full leaving no remaining issue for Appeals consideration
- Collection is the sole issue, which is resolved by a IBTF-Express, Streamlined or Guaranteed IA
- Penalty appeal is the sole issue and relief is granted in full, leaving no remaining issue for Appeals consideration
- Collection accepts a taxpayer's Offer in Compromise, leaving no issues for Appeals consideration
- The taxpayer is granted an extension of time to pay following IRM 8.22.7.6 and there are no other issues for Appeals consideration

**Table of Contents – IRM 8.23
Offer in Compromise**

The below listed IRM sections authorize ATEs to take certain actions in OIC cases.

IRM Section	Title	Page Number(s)
8.23.4.4.1	Withdrawn Offer Closing Documents and Appeals Hearing Officer Procedures	12

8.23.4.4.1

Withdrawn Offer Closing Documents and Appeals Hearing Officer Procedures

(2) You are responsible for inputting the following data on the OIC Customized Form 5402:

- Amount of the outstanding liability
- Amount of the taxpayer's original offer
- Amount of RCP determined by Appeals

(3) Prepare Letter 241, Offer in Compromise Withdrawal Letter, to the taxpayer. Letter 241 can be signed by the Appeals Officer. In a withdrawal, there is no need to secure an ATM signature on Form 5402.

(6) Once all of the above documents are complete and assembled, update the ACDS case status to AC/FR and provide a copy of Form 5402 to ATM for ACAP entry on ACDS.

**Table of Contents – IRM 8.24.1
Collection Appeals Program (CAP)**

The below listed IRM sections authorize ATEs to take certain actions in CAP cases.

IRM Section	Title	Page Number(s)
8.24.1.2.10	CAP Type and Closing Codes for ACDS	16-17
Exhibit 8.24.1-1	Instructions for Completing Customized CAP Form 5402	19
Exhibit 8.24.1-2	Step-by-Step Paperless CAP Process for Non-Field Sourced Cases	20
Exhibit 8.24.1-3	Step-by-Step Paperless CAP Process for Field Sourced Cases	21

8.24.1.2.10

CAP Type and Closing Codes for ACDS

(2) Closing codes are used under the following circumstances.

If the Collection Action is	Use Closing Code	When..
Fully sustained	14	the collection action is supported with no change.
Not sustained	15	the collection action is completely overturned. For example, closing code 15 would be used when a levy is released.
Partially sustained	16	only minor changes are made in the collection action. For example, if filing of a Notice of Federal Tax Lien is proposed, a minor change would be to give the taxpayer 10 more days to come up with the funds before the lien is filed.

Note: After filing a CAP appeal, if the taxpayer, or their representative, state they are no longer interested in pursuing the appeal and withdraw their CAP appeal, Appeals should close the case with closing code 14, supporting Collection. In a CAP withdrawal:

- The assigned hearing officer may sign the Closing Letter
- The Form 5402 does not require an ATM signature

Exhibit 8.24.1-1

Instructions for Completing Customized CAP Form 5402

Item	Instructions
1. Date	Leave blank; APS will fill in date.
2. Route to	Include complete address of the ACS, Customer Service unit or Collection Field group where case is to be returned
3. From/Appeals Code	Populated from ACDS
4. Description	Select from Drop Down Box
5. Taxpayer	Populated from ACDS

6. SSN/TIN	Populated from ACDS
7. WORKUNIT NO.	Populated from ACDS
8. Tax Years/applicable tax periods	Populated from ACDS Note: Appeals hearing officer will verify all applicable periods are included on the Form 5402.
9. Type of Case	Populated from ACDS
10. Category Code	Populated from ACDS
11. Related Taxpayers	Complete with related taxpayer info as appropriate
12. Disposal Information	ARDI Code 7 automatically populated; Premature Referral Code, Closing Code, Resolution Reason Code will be selected from "pick list;" Other - Optional
13. Special Features	Short statute, Compliance Follow-up, Case involves an "OAR" selected as applicable; Other-Optional
14. Remarks and/or Supporting Statement	Select appropriate closing information from pick list; for field sourced CAPs, enter the email addresses of the originating RO and RO Group Manager.
15. Taxpayer Representative/Phone #	Populated from ACDS
16. Appeals hearing officer Signature/Date	self-explanatory
17. Approval / Date	ATM signs and dates Note: A CAP withdrawal does not require an ATM signature.

Exhibit 8.24.1-2
Step-by-Step Paperless CAP Process for Non-Field Sourced Cases

Step No.	Description
1	CAP Case Coordinator uses E-eFax (Enterprise electronic fax # 855-214-7525) to transmit a CAP case to Memphis APS; E-eFax converts the paper fax into a pdf document.
2	Memphis APS cards in the CAP on ACDS and routes the case to a Campus Appeals Team in Memphis.
3	Upon the direction of an Appeals Team Manager (ATM), the group secretary assigns the CAP to an Appeals hearing officer.
4	The assigned Appeals hearing officer holds the hearing with the taxpayer and renders a case decision; should the Appeals hearing officer receive any additional documents during the hearing, they will be scanned and incorporated into the case file.
5	<p>The Appeals hearing officer submits the entire case (including the closing documents), via encrypted email, to the ATM for approval.</p> <p>Note: In a CAP withdrawal, the Appeals hearing officer can sign the closing documents (Closing Letter and Form 5402). ATM approval is not required.</p>
6	<p>Upon approval of the case decision, the ATM digitally signs the closing documents (Closing Letter and Form 5402) and forwards the entire case file to APS via encrypted email.</p> <p>Note: In a CAP withdrawal, an ATM signature is not required on the Closing Letter and Form 5402. The ATM will enter the ACAP date on ACDS and forward the case file to APS.</p>
7	<p>APS makes the necessary inputs on ACDS upon receipt of the CAP case closure; if the case is selected for AQMS review as APS inputs the closing data on ACDS (pop-up box will appear), APS uses encrypted email to transmit the entire case file to the designated AQMS reviewer.</p> <p>Note: A signed and dated copy of the closing letter is required for AQMS review.</p>
8	<p>APS sends the closing documents (Form 5402, Closing Letter and Appeals Case Memo, if prepared) to the CAP Case Coordinator via encrypted email.</p> <p>Note: APS also faxes or prints & mails the Closing Letter to the taxpayer/representative.</p>

9	APS verifies the closing documents were received by the originating function (CAP Case Coordinator) through a confirmation of receipt of the encrypted email.
10	Upon verification that the closing documents were received by the CAP Case Coordinator, the closed case is purged per the IRM requirement.

**Exhibit 8.24.1-3
Step-by-Step Paperless CAP Process for Field Sourced Cases**

Step No.	Description
1	The Field Collection Revenue Officer (RO) uses E-eFax (Enterprise electronic fax # 855-214-7525) to transmit a CAP case to Memphis APS; E-eFax converts the paper file into a pdf document. Note: If Field Collection secures the CAP via E-eFax, it will already be a pdf document and may be forwarded via encrypted email to the APS mailbox: *AP Collection Appeals Program .
2	Memphis APS cards in the CAP and routes the case, via encrypted email, to the designated ATM of the Appeals Field Office per the CAP Case Routing page on the Appeals website.
3	The ATM assigns and transmits the CAP case to the Appeals hearing officer via encrypted email.
4	The assigned Appeals hearing officer holds the hearing with the taxpayer/representative and reaches a case decision; any additional documents submitted by the taxpayer will be secured via E-eFax and incorporated into the case file.
5	The Appeals hearing officer submits the entire case, including the closing documents, via encrypted email to the ATM for approval. Note: On the Form 5402 (in the Remarks section), the Appeals hearing officer will include the email addresses of the originating RO and RO Group Manager. Note: In a CAP withdrawal, the Appeals hearing officer can sign the closing documents (Closing Letter and Form 5402). ATM approval is not required.
6	Upon approval of the case decision, the ATM electronically signs the closing

	<p>documents (Closing Letter and Form 5402) and forwards the entire case file to APS via encrypted email.</p> <p>Note: In a CAP withdrawal, an ATM signature is not required on the Closing Letter and Form 5402. The ATM will enter the ACAP date on ACDS and forward the case file to APS.</p>
7	<p>APS makes the necessary inputs on ACDS upon receipt of the CAP case closure. If the CAP is selected for AQMS review, APS will forward the case file (including all original e-faxed documents, any additional documents received during the hearing and the closing documents) to the designated reviewer, via encrypted email, and proceed with Step 8 of the process.</p> <p>Note: A signed and dated copy of the closing letter is required for AQMS review.</p>
8	<p>APS sends the closing documents (Form 5402, Closing Letter and Appeals Case Memo, if prepared), via encrypted email, to the Field Collection RO with a cc to the RO Group Manager.</p> <p>Note: APS will input the date on the Closing Letter.</p> <p>Note: APS will select the "Request a Delivery Receipt" option to track the email.</p> <p>Note: APS will fax or print and mail (if a fax number is not available) the Closing Letter to the taxpayer/representative the same day the closing documents are emailed to Collection.</p>
9	<p>APS verifies the closing documents were received by Collection through a confirmation of receipt of the encrypted email.</p>
10	<p>APS purges the closed CAP case per the IRM requirement.</p>

**Table of Contents – IRM 8.25.2
Trust Fund Recovery Penalty (TFRP)**

The below listed IRM sections authorize ATEs to take certain actions in TFRP cases.

IRM Section	Title	Page Number(s)
8.25.2.8	Closing Actions for the Appeals Hearing Officer	27-29
8.25.2.9	TBOR2 Expedite Closing Actions for the Appeals Team Manager	29-30

8.25.2.8

Closing Actions for the Appeals Hearing Officer

(1) The hearing officer working the case will complete the customized Form 5402 and Form 3210 for each responsible person. The revised findings penalty section should reflect the trust fund penalty to be assessed. Update ACDS following the general closing instructions. Address Form 5402 to the Control Point Monitor (CPM) office that sent the TFRP case to Appeals. For withdrawals and protests considered withdrawn, due to unperfected protests and/or Forms 2848, *Power of Attorney*, there is no need to secure an ATM signature on the Form 5402 or Form 3210.

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

When Closing...	Then...	...and
<p>An Unagreed TBOR2 case 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 unperfected protests and/or Forms 2848, <i>Power of Attorney</i>.</p>	<p>Select closing code 13, Unagreed, and the appropriate Resolution Reason Descriptions on the customized Form 5402. For withdrawals and protests considered withdrawn, there is no need to secure an ATM signature on Form 5402.</p>	<p>Use Letter 1536, <i>Closing Letter for Unagreed Employment Tax and Trust Fund Recovery Penalty</i>, 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 hearing officer.</p>

8.25.2.9

TBOR2 Expedite Closing Actions for the Appeals Team Manager and Hearing Officer

(1) The approving ATM, or the approving hearing officer for cases that are withdrawn or considered withdrawn, can either take required steps in (2), below, or direct the hearing officer (if applicable) or APS to complete some of them based on local agreement. If local agreement does not specify, or the case arrives in APS for processing without the proof described in step 5 that the assessment documents were received by the CPM, then APS is responsible for ensuring their immediate delivery. For withdrawals and protests considered withdrawn, due to unperfected protests and/or Forms 2848, *Power of Attorney*, there is no need to secure an ATM signature on the Form 5402 or Form 3210. If the hearing officer is authorized to close the withdrawn TFRP case, the hearing officer, and not the ATM, will take the steps outlined in (2), below.

(2) TFRP cases that are extended by TBOR2 (the ASED will expire 30 days after the ATM's approval signature or the hearing officer's signature, in cases that are withdrawn or considered withdrawn, on [Form 5402](#) or [Form 866](#), Closing Agreement) are closed as follows:

Appeals Team Manager or Hearing Officer (as applicable) will:	
Step	Action
1)	Sign and date Form 5402 and Form 866 , if applicable.
2)	<p>The ATM will enter the ACAPDATE in all cases, regardless of whether the ATM or hearing officer signed Form 5402, and alert the Account and Processing Support (APS) Team Manager by email that a TFRP case requiring quick or prompt assessment action by Advisory has been sent. This notification should include the WUNO and revised statute date of the approved case.</p> <p>Note: The ATM should ensure that the approval signature dates on Form 5402 and Form 866 (the final administrative determination) are identical to the Appeals Closing Approval (ACAPDATE).</p>
3)	Confirm the case is flagged "EXPEDITE."
4)	Hand-deliver the case to APS, if located on site. If APS is located elsewhere, send the closed case, via overnight mail, to APS. Ensure the case is received in APS within 5 days of the ACAPDATE.
5)	<p>APS will take appropriate actions to ensure the Form 5402 and Form 2749 are provided by email or fax immediately to the responsible Technical Services Advisory Control Point Monitor (CPM) unit manager.</p> <p>Note: ACDS is programmed to remove the TBOR2 statute code when the ACAPDATE is entered by the ATM and to add 30 days to the ACAPDATE. This date is entered in the Earliest Statute Date field and covers all periods.</p> <p>Note: To prevent a TBOR2 case with an ASED greater than 30 days from being systemically identified as a TBOR2 short statute case, the TBOR2 statute code can be removed and the correct earliest ASED date input and validated through AIVP. If changed, correct the customized Form 5402. Appeals general expedite statute procedures in IRM 8.21, <i>Appeals Statute Responsibility</i>, are applicable to TFRP cases.</p>