



INDEPENDENT OFFICE
OF APPEALS

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, DC 20224

December 7, 2022

Control No. AP-08-1222-0018
Expiration Date: 12/07/2024
Affected IRM: IRM 8.11.5

MEMORANDUM FOR IRS INDEPENDENT OFFICE OF APPEALS (APPEALS)
EMPLOYEES WHO WORK INTERNATIONAL PENALTIES

FROM: John E. Hinding /s/ *John E. Hinding*
Director, Specialized Examination Programs & Referrals

SUBJECT: Appeals Procedures for Considering First Time Abatement
(FTA) Penalty Relief on International Penalties

Purpose: This memorandum issues guidance on IRM 8.11.5, Penalties Worked in Appeals, International Penalties. This memorandum clarifies guidance on Appeals procedures when considering the applicability of FTA on international penalty cases.

Background/Source(s) of Authority: FTA administrative waivers are generally not available to grant relief from International Penalties addressed in IRM 8.11.5. However, an exception is added under this guidance to allow Appeals technical employees (ATEs) the ability to consider and recommend granting FTA penalty relief on certain systemically assessed penalties for the following filers:

- 1) Form 5471, Information Return of U.S. Persons With Respect to Certain Foreign Corporations; and
- 2) Form 5472, Information Return of a Foreign Owned Corporation.

This guidance promotes consistency with IRM 20.1.9.3.5(3), Reasonable Cause, and IRM 20.1.9.5.5(3), Reasonable Cause.

Procedural Change: See the Attachment for detailed instructions.

Effect on Other Documents: This guidance will be incorporated into IRM 8.11.5, Penalties Worked in Appeals, International Penalties, within two years from 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](#).

Attachment: Appeals Procedures for Considering First Time Abatement (FTA) Penalty Relief on International Penalties

cc: www.irs.gov

Attachment AP-08-1222-0018, Appeals Procedures for Considering First Time Abatement (FTA) Penalty Relief on International Penalties

IRM 8.11.5.1

Introduction of International Penalties

MODIFY NOTE IN (12): Note: The First Time Abatement (FTA) administrative waiver is generally not applicable to International Penalties addressed in IRM 8.11.5. However, see the exceptions noted in IRM 8.11.5.2.3 and IRM 8.11.5.3.3 for systemically assessed penalties on Form 5471, Information Return of U. S. Persons With Respect to Certain Foreign Corporations, and Form 5472, Information Return of a Foreign Owned Corporation, respectively.

IRM 8.11.5.2.3

Penalty Relief

NEW: (4) First Time Abate - FTA penalty relief provisions generally do not apply to event-based filing requirements. However, see the exception in IRM 20.1.9.3.5(3)(b), Reasonable Cause, for the *potential* applicability of FTA relief to certain systemically assessed penalties on Form 5471.

IRM 8.11.5.3.3

Penalty Relief

NEW: (2) First Time Abate - FTA penalty relief provisions generally do not apply to event-based filing requirements. However, see the exception in IRM 20.1.9.5.5(3)(b), Reasonable Cause, for the *potential* applicability of FTA relief to certain systemically assessed penalties on Form 5472.