



MANUAL TRANSMITTAL

Department of the Treasury
Internal Revenue Service

4.24.16

JUNE 5, 2023

EFFECTIVE DATE

(06-05-2023)

PURPOSE

- (1) This revises IRM 4.24.16, Excise Fuel Compliance Report Writing, Case Processing and Appeals Procedures.

MATERIAL CHANGES

- (1) Refer to the table below for a description of the material changes made.

Number	Subsection	Description of Change
1	IRM 4.24.16.1, Program Scope and Objectives	Added clarification for case routing procedures for cases routed to the Independent Office of Appeals (Appeals) through Technical Services (Tech Services).
2	IRM 4.24.16.1.1, Background	Added clarification that the dyed fuel rules also apply to kerosene and that the Leaking Underground Storage Tank (LUST) tax still applies to most (otherwise) nontaxable uses of diesel fuel and kerosene.
3	IRM 4.24.16.1.5, Acronyms	Corrected acronym TC (Transaction Code) and added acronyms TIN (Taxpayer Identification Number), EFL (Excise Forensic Laboratory) and GM (group manager) and DC (disposal code).
4	IRM 4.24.16.2, Report Writing and Case Processing Overview	Added IRC titles for different types of violations. Added content to address that inspections that result in a violation and those that result in No Adverse Action must both be documented. Clarified that Form 9984, Examining Officer's Activity Record, is not a substitute for any workpapers that are applicable to the case file. Added clarification on when the use of Form 5346 is required.
5	IRM 4.24.16.2.1, State Penalty Case Processing	Added content to address Refusal of Entry penalties from states. Added clarification that WSD is to establish all state penalty cases on IMS and ERCS.

Number	Subsection	Description of Change
6	IRM 4.24.16.2.1.1	Created new subsection. Added title, Closing Procedures for Established State Penalties With No Taxpayer Contact. Added content to provide procedures for cases that have been established on IMS and ERCS and later are determined, without taxpayer contact, that the assertion of a penalty is not warranted.
7	IRM 4.24.16.2.2, Inspections Resulting in No Adverse Actions	Updated the titles for Letters 3143 and 3144.
8	IRM 4.24.16.2.3, Penalty Case Processing Procedures	Updated the titles for Letter 3145.
9	IRM 4.24.16.2.5, Inspections Resulting in a Potential IRC 6715 Violation	Incorporated IGM SBSE 04-0821-0042, which revised procedures for enclosures to be included with fuel related penalty packages that include Letters 3145 and 3057.
10	IRM 4.24.16.2.6, Inspections Resulting in a Potential IRC 6715A Violation	Incorporated IGM SBSE 04-0821-0042, which revised procedures for enclosures to be included with fuel related penalty packages that include Letters 3145 and 3057.
11	IRM 4.24.16.2.7, Inspections Resulting in a Potential IRC 6717 Violation	Incorporated IGM SBSE 04-0821-0042, which revised procedures for enclosures to be included with fuel related penalty packages that include Letters 3145 and 3057.
12	IRM 4.24.16.2.8, Inspections Resulting in a Potential IRC 6720A Violation	Incorporated IGM SBSE 04-0821-0042, which revised procedures for enclosures to be included with fuel related penalty packages that include Letters 3145 and 3057.
13	IRM 4.24.16.2.9.1, Case Assembly for Paper Case Files	Consolidated multiple references to IRM 4.24.16.5. Workload Selection & Delivery State Penalty Checklist.
14	IRM 4.24.16.2.9.2, Indexing and Naming Convention for IMS Penalty Case Forms and Workpapers	Added content to include Workload Selection & Delivery State Penalty Checklist.
15	IRM 4.24.16.3, Administrative Appeal of Fuel Penalty	Reorganized content and updated IRM reference for guidance on determining if a request for appeals is adequate.

Number	Subsection	Description of Change
16	IRM 4.24.16.3.1, Appeals Case Routing Procedures for Penalty Cases	Removed obsolete information and added link to IRM 8.7.10.13 to provide guidance on current procedures and information on dyed fuel penalties being referred to appeals.
17	IRM 4.24.16.5, Fuel Compliance Collection Duties	Updated to provide link to IRS.gov for payment and payment plan information.

(2) Editorial changes, such as updates to IRM references, citations and websites have been made.

EFFECT ON OTHER DOCUMENTS

This material supersedes IRM 4.24.16 dated January 10, 2020. This IRM Section (section) incorporates Interim Guidance Memorandum (IGM) SBSE 04-0821-0042, Fuel Related Penalty Package Enclosures for Letter 3145, 30-Day Letter for Fuel Related Proposed Penalties and Letter 3057, Refusal Letter Under IRC 4083(d), dated August 13, 2021. IGM SB/SE 04-0922-0076, Extend and Update Guidance on Determining the Adequacy of an Appeal in an Excise Examination Case, was reviewed. The interim guidance is unrelated to the IRM and does not apply to content under IRM 4.24.16.2.3, Penalty Case Processing Procedures, and IRM 4.24.16.3, Administrative Appeal of Fuel Penalty.

AUDIENCE

This section provides direction to the Chief, Estate & Gift/Excise Tax Exam, Territory Managers, Group Managers (GMs), Fuel Compliance Officers (FCOs) and Fuel Compliance Agents (FCAs). FCOs and FCAs are collectively referred to throughout this section as **employees**.

Timothy J. Bilotta
Acting Director, Examination - Specialty Policy
Small Business/Self Employed

4.24.16

Excise Fuel Compliance Report Writing, Case Processing and Appeals Procedures

Table of Contents

4.24.16.1 Program Scope and Objectives

4.24.16.1.1 Background

4.24.16.1.2 Authority

4.24.16.1.3 Responsibilities

4.24.16.1.4 Program Objectives and Review

4.24.16.1.5 Acronyms

4.24.16.1.6 Related Resources

4.24.16.2 Report Writing and Case Processing Overview

4.24.16.2.1 State Penalty Case Processing

4.24.16.2.1.1 Closing Procedures for Established State Penalties With No Taxpayer Contact

4.24.16.2.2 Inspections Resulting in No Adverse Actions

4.24.16.2.3 Penalty Case Processing Procedures

4.24.16.2.4 Case Closing Procedures for Penalty Proposals

4.24.16.2.4.1 Instructions for Completing Form 5345-D for Penalty Proposals

4.24.16.2.4.2 Instructions for Completing Form 8278 for Penalty Proposals

4.24.16.2.4.3 Instructions for Completing Form 3198 for Penalty Proposals

4.24.16.2.4.4 Instructions for Completing Form 2363

4.24.16.2.5 Inspections Resulting in a Potential IRC 6715 Violation

4.24.16.2.6 Inspections Resulting in a Potential IRC 6715A Violation

4.24.16.2.7 Inspections Resulting in a Potential IRC 6717 Violation

4.24.16.2.8 Inspections Resulting in a Potential IRC 6720A Violation

4.24.16.2.9 Case File Assembly for Penalty Inspection Cases

4.24.16.2.9.1 Case Assembly for Paper Case Files

4.24.16.2.9.2 Indexing and Naming Convention for IMS Penalty Case Forms and Workpapers

4.24.16.2.10 Centralized Case Processing (CCP)

4.24.16.2.11 Case Processing-Managerial Responsibilities

4.24.16.3 Administrative Appeal of Fuel Penalty

4.24.16.3.1 Appeals Case Routing Procedures for Penalty Cases

4.24.16.3.2 Final Disposition of the Penalty Case File after the Appeal

4.24.16.4 Claim for Refund of Fuel Compliance Penalties

4.24.16.5 Fuel Compliance Collection Duties

4.24.16.1
(06-05-2023)

Program Scope and Objectives

- (1) The Fuel Compliance Program enforces the laws and regulations pertaining to the following:
 - a. Proper sale and use of dyed fuel
 - b. Sulfur content of taxed, undyed diesel fuel
 - c. Requirement to dye fuel by means of a mechanical dye injection system
 - d. Reporting requirements for the bulk distribution of fuel through pipeline or barge
 - e. Reporting requirements for the distribution of fuel below the terminal rack
- (2) Employees will conduct fuel inspections throughout the fuel distribution system without prior notice to the taxpayer. Employees start the workday from their residence or Post of Duty station and travels to a site to conduct an inspection. During an inspection, interviews and tours are conducted, records are reviewed, and fuel samples are obtained. The samples are obtained from fuel storage tanks and the propulsion tanks of highway vehicles. The fuel samples are shipped to and tested by the Excise Forensic Laboratory (EFL), under an interagency agreement with the IRS.
- (3) **Purpose** – It is essential for senior-level officials, managers, and employees to understand the procedures contained in this section. This section contains procedural guidance pertaining to report writing, case processing and case routing procedures for cases routed to the Independent Office of Appeals (Appeals) through Technical Services (Tech Services).
- (4) **Audience** – The intended audience of this IRM includes the Chief, Estate & Gift/Excise Tax Exam, Territory Managers, GMs, FCOs and FCAs.
- (5) **Policy owner** – Director, Specialty Examination Policy owns the policies contained herein.
- (6) **Program owner** – Program Manager, Excise Tax Policy is responsible for the administration, procedures, and updates related to the fuel compliance program.
- (7) **Primary stakeholders** – Other areas that are affected by these policies and procedures include Centralized Case Processing (CCP), Tech Services, Appeals, Cincinnati Compliance Service Center (CCSC) and Workload Selection and Delivery (WSD).

4.24.16.1.1
(06-05-2023)

Background

- (1) The Omnibus Budget Reconciliation Act of 1993 became effective on January 1, 1994. The federal excise tax imposed by IRC 4081 no longer applied to removals of diesel fuel that are indelibly dyed (or dyed and marked) in accordance with IRS regulations. The Fuel Compliance Program rolled out in June of 1994. Its primary goal was to ensure that all dyed fuel leaving the terminal rack was dyed within the prescribed concentration levels, as well as ensuring that dyed fuel was not being utilized in diesel powered vehicles registered or required to be registered by the State.
- (2) The dyed fuel rules also apply to kerosene and the Leaking Underground Storage Tank (LUST) tax still applies to most (otherwise) nontaxable uses of diesel fuel and kerosene.

4.24.16.1.2
(01-10-2020)

Authority

- (1) IRC 4083(d) and *Treas. Reg. 48.4083-1(a)* authorizes officials of the Internal Revenue Service, upon presenting appropriate credentials and a written notice to the owner, operator, or agent in charge, to enter any place and to conduct inspections in accordance with paragraphs (a) through (c) of *Treas. Reg. 48.4083-1*. IRS officials are authorized to inspect, examine, and/or search:
 - Equipment used or capable of being used for the production, storage, or transportation of fuel, fuel dyes, or fuel markers.
 - Equipment used to determine the amount or composition of taxable fuel.
 - Equipment used for the dyeing or marking of fuel.
 - Containers used or capable of being used for the production, storage or transportation of fuel, fuel dyes, or fuel markers.
 - Books and records kept to determine excise tax liability under IRC 4081.
 - Propulsion tanks of vehicles and trains.
 - Fuel cargo storage tanks of vehicles, trains, and marine vessels.
- (2) Employees are authorized to take and remove samples in quantities that are reasonably necessary to determine the composition of the fuel. See *Treas. Reg. 48.4083-1(c)(3)*.

4.24.16.1.3
(06-05-2023)

Responsibilities

- (1) Director, Specialty - Examination Policy, is responsible for the procedures and policies in this section.
- (2) Program Manager, Excise Tax Policy, is responsible for ensuring that the procedures are accurate and updated regularly, as needed.
- (3) Chief, Estate & Gift/Excise Tax Exam, is responsible for ensuring the procedures within this section are adhered to.
- (4) Territory Managers, Excise Tax Examination, are responsible for ensuring that the GMs are aware and adhere to the procedures in this section.
- (5) GMs, Excise Tax Examination, are responsible for ensuring their employees adhere to the procedures in this section.
- (6) FCO and FCA groups are responsible for following all procedures in this section.

4.24.16.1.4
(06-05-2023)

Program Objectives and Review

- (1) **Program Goals** - The goal of this section is to provide guidance pertaining to report writing, case processing and Appeals procedures.
- (2) **Program Reports** - The effectiveness of employees following the procedures outlined in this section is evaluated with the use of the following tools:
 - Issue Management System (IMS) reports
 - Fiscal year plan monitoring reports
 - Examination Returns Control System (ERCS) reports
 - IMS Team Website
- (3) **Program Effectiveness** - The effectiveness of this program is measured by revenue protected. IRS employees being vigilant and visible in all geographic regions, promotes voluntary taxpayer compliance.
- (4) **Annual Review** - The following reviews are conducted annually:

- Program Manager, Excise Tax Policy, conducts program reviews
- Chief, Estate & Gift/Excise Tax Exam, conducts territory operational reviews
- Territory Managers, Excise Tax Examination, conduct group operational reviews

4.24.16.1.5
(06-05-2023)
Acronyms

- (1) Definitions of all acronyms used throughout this section are depicted in the following table:

Acronym	Definition
ACM	Appeals Case Memorandum
AIMS	Audit Information Management System
APS	Appeals Account and Processing Support
CCSC	Cincinnati Compliance Service Center
EFL	Excise Forensic Laboratory
EIN	Employee Identification Number
CCP	Centralized Case Processing
DC	Disposal Code
ERCS	Examination Returns Control System
FCA	Fuel Compliance Agent
FCO	Fuel Compliance Officer
GM	Group Manager
IDRS	Integrated Data Retrieval System
IMS	Issue Management System
TC	Transaction Code
TIN	Taxpayer Identification Number
TSC	Technical Services Code
UIL	Uniform Issue List
WSD	Workload Selection and Delivery

4.24.16.1.6
(01-10-2020)

Related Resources

- (1) In addition to this section, the following sections provide additional guidance, as it pertains to fuel compliance activities:

IRM	Title
IRM 4.24.13	Overview of Excise Fuel Compliance Program
IRM 4.24.14	Excise Fuel Compliance Safety, Uniform, and Motor Vehicle Requirements
IRM 4.24.15	Excise Fuel Compliance Inspection, Sampling and Shipping

4.24.16.2
(06-05-2023)

Report Writing and Case Processing Overview

- (1) Employees conduct inspections and obtain fuel samples to ensure taxable fuel in the fuel distribution system is properly dyed and taxed. These inspections may result in the employee asserting penalties if non-compliance is identified.
- (2) Employees record the following types of inspection cases on IMS:

- No Adverse Action (sometimes referred to as a no-change case)
- IRC 6715, Dyed Fuel Sold For Use Or Used In Taxable Use, Etc., violation
- IRC 6715A, Tampering With Or Failing To Maintain Security Requirements For Mechanical Dye Injection Systems, violation
- IRC 6717, Refusal Of Entry, violation
- IRC 6720A, Penalty With Respect To Certain Adulterated Fuels, violation

Note: See table in IRM 4.24.16.2.3(4) for definitions of the violations.

- (3) Employees must record all inspections and taxpayer contacts in IMS. Inspections that result in a violation and those that result in **No Adverse Action** must both be documented. Form 9984, Examining Officer's Activity Record, is not a substitute for any workpapers that are applicable to the case file. See IRM 4.24.13, Overview of Excise Fuel Compliance Program.
- (4) For fuel sampling procedures, see IRM 4.24.15, Excise Fuel Compliance Inspection, Sampling and Shipping.
- (5) Employees must record the inspection in IMS within four business days after the date of the inspection, unless:
- a. The GM gives specific permission to delay recording the inspection.
 - b. The employee is participating in a Blitz activity. See IRM 4.24.15.8, Blitz Inspection Procedures.
 - c. A computer malfunction precludes input; however, employees must record the inspection promptly after the computer problem is resolved.

Note: Employees must notify the Help Desk and their GM of a computer malfunction as soon as possible after a problem is encountered.

- (6) Employees must document each action taken on the inspection case using Form 9984. The documentation must include the date of the action and a

clear, concise explanation of the activity or contact. The form will also be used to explain delays in processing and closing cases beyond IRM guidance. The form is not to be used as a substitute for an issue workpaper. Non penalty inspections should be documented under the associated inspection type. See IRM 4.24.13, for more information.

- (7) If sample results are not received within 10 business days after shipment, employees should inform their GM, who may inquire about the status of the sample.
- (8) Employees are responsible for building the hard copy penalty case files.
- (9) When the violation is determined to be material or it has been determined the violation is intentional Form 5346, Examination Information Report, will be included in the hard case file and forwarded to the GM. See IRM 4.24.13.9, Referrals.
- (10) If the taxpayer has a representative and has a valid power of attorney authorizing receipt of correspondence, then employees must send all correspondence to both the taxpayer and the representative. See IRM 4.11.55, Power of Attorney Rights and Responsibilities.

4.24.16.2.1 (06-05-2023) State Penalty Case Processing

- (1) A state penalty does not automatically result in a federal penalty assessment. Information received from a state is considered along with all the other facts and circumstances. Each case is evaluated to determine if a federal penalty is warranted. Employees must carefully consider factors that affect the validity of the sample (i.e., contamination of the sample) and the protection of the taxpayer's rights. Employees may need to contact the taxpayer and obtain additional samples to determine if a federal penalty is warranted.

Caution: A person who refused to allow a state employee to conduct an inspection has not violated IRC 6717. A "Refusal of Entry" penalty received from a state will not result in a federal penalty under IRC 6717.

- (2) WSD is to establish all state penalty cases on IMS and ERCS.
 - a. Employees who receive samples from state officers must document receipt of the samples and upload the state narratives in IMS. Employees may only accept fuel samples from states with whom the IRS has entered a fuel sampling, information-sharing agreement.
 - b. Tracking code 9529, State Fuel Usage Sample Penalties, must be used for all state-initiated cases input into IMS. Tracking code 9529 supersedes use of the other tracking codes listed in the tracking code table in IRM 4.24.16.2.3, Penalty Case Processing Procedures.
 - c. If employees pursue a penalty for a federal violation, processing the federal case should not be delayed pending the outcome of the state case nor for any appeals related to that state case. The federal penalty case should be fully developed and stand on its own merits.
 - d. If employees do not pursue a penalty for a federal violation, employees must input the explanation in IMS, but will treat the inspection as a no adverse action case. Employees must follow the procedures for closing the case as a no adverse action case.

4.24.16.2.1.1
(06-05-2023)

**Closing Procedures for
Established State
Penalties With No
Taxpayer Contact**

- (1) If it is determined that a state penalty will not result in a federal penalty related to the fuel inspection **and** taxpayer contact has not been made, then employees with approval of their group manager should take the following steps to survey the case in IMS.
- (2) Employees must survey the penalty case after assignment in IMS by completing Form 2503, Survey After Assignment - Excise or Employment Tax, and Form 5351, Examination Non-Examined Closings, by:
 - Ensuring the IMS case file includes all documentation to support the decision to survey the penalty case after assignment.
 - Entering disposal code (DC) 32 in IMS Edit Entity window, under the ERCS Data tab.
 - Adding return document Form 5351 in IMS in the Returns window, select the survey reason code (SRC) "E - Other (Be Specific in Explanation)" and complete the Additional Information field with an explanation justifying why the penalty case is being surveyed after assignment. Under the Additional Information field, select the Survey Form 2503 and complete lines 6, 11(b), and 12. IMS will generate a Form 2503 and Form 5351 populated with data entered.

Note: Employees must review that the necessary data fields on Form 2503 and Form 5351 were populated correctly.

 - Submitting Form 2503 and Form 5351 to the GM through IMS by using the Edit Return Document Status and selecting the Form Status to "Submitted for Approval."
 - If the GM concurs with determination to survey the case after assignment, then the GM will approve Form 2503 and Form 5351 via the IMS Team Website. The GM will notify the employee of their decision.
- (3) Employees must close the case in IMS after Form 2503 and Form 5351 have been approved by the GM.

Note: No paper case file will be prepared.

- (4) The GM will send the completed Form 5351 to the group administrative assistant to close the penalty case from ERCS.
- (5) The group administrative assistant will close the penalty case to status 90 on ERCS using DC 32.

4.24.16.2.2
(06-05-2023)

**Inspections Resulting in
No Adverse Actions**

- (1) When creating a "no adverse action" case (also referred to as a "no-change" case) in IMS, use uniform issue list (UIL) code 04081.00-00, Gasoline and Diesel Fuel.
- (2) For non-terminal inspections that do not result in adverse action, employees should issue Letter 3143, Non-violation Results of Inspection, and close the case in IMS by the end of the next business day after the inspection has been input in IMS and the determination is made. If the taxpayer identification number (TIN) is not known, employees may provide Letter 3143 to the taxpayer without a TIN, if the letter is issued at the inspection site on the date of the inspection. If a penalty will not be pursued the cycle type must be updated to **EX-CMP** if the input was initially **EX-Federal** or **EX-State**.

- (3) For terminal inspections, employees should issue Letter 3144, Fuel Compliance Program Inspection Results, and close the case in IMS by the end of the next business day after the inspection is input in IMS and the determination is made.

4.24.16.2.3
(06-05-2023)

Penalty Case Processing Procedures

- (1) Within four days of finding a potential penalty, employees must notify their GM and create a case (with all necessary workpapers) in IMS.
- (2) If multiple penalties (e.g., IRC 6715(a)(1) and IRC 6717) are assessed on the same taxpayer, employees must create one IMS case file, and include multiple penalties as separate entities within that one IMS case file and all appropriate closing forms (see below, IRM 4.24.16.2.4, Case Closing Procedures for Penalty Proposals).

Note: This situation occurs rarely. For assistance, input an IMS help ticket.

- (3) Select the appropriate tracking code when creating the case. The chart below provides the applicable fuel tracking codes and corresponding penalty code sections.

Tracking Code	Penalty Type
9529	State Fuel Usage Sample Penalties
9992	IRC 6715(a)(1) Penalty - Dyed fuel held for sale or sold
9994	IRC 6715(a)(2) Penalty - Dyed fuel held for use or used
9994	IRC 6715(a)(3) Penalty - Willful alteration of the strength or composition of any dyed fuel
9994	IRC 6715(a)(4) Penalty - Has knowledge that dyed fuel has been altered and sells or holds for sale such fuel for any use which the person knows or has reason to know is not a nontaxable use of such fuel
9995	IRC 6715A(a)(1) and IRC 6715A(a)(2) Penalty - Mechanical dye tampering and failure to maintain security requirements
9996	IRC 6717 Penalty - Refusal of entry
9998	IRC 6720A (a) & (b) Penalty - Penalty with respect to certain adulterated fuels

- (4) Select the appropriate UIL code when creating the case. The chart below provides the applicable UIL codes and corresponding penalty code sections.

UIL Code	Description	Penalty Type
06715.00-00	Dyed fuel sold for use or used in a taxable manner	For IRC 6715(a) (1), (2), (3) & (4) penalty proposals
06715A.00-00	Tampering with or failing to maintain security requirements for mechanical dye injection systems	For IRC 6715A penalty proposals

UIL Code	Description	Penalty Type
06717.00-00	Refusal of entry	For IRC 6717 penalty proposals
06720A.00-00	Penalty with respect to certain adulterated fuels	For IRC 6720A penalty proposals

- (5) Once the lab results are received, employees must complete Form 5345-D, Examination Request-ERCS (Examination Returns Control System) Users, in IMS and submits the form electronically to the GM for approval. Form 5345-D is used to establish the penalty case on ERCS. See IRM 4.24.16.2.4.1, Instructions for Completing Form 5345-D for Penalty Proposals.
- (6) When preparing the penalty package, employees must research the Integrated Data Retrieval System (IDRS) to determine if any violations were assessed previously against the taxpayer. Employee must record the dates, IRC sections and total number of prior penalties for each IRC section in the IMS case file.
- (7) Employees must review the following IDRS command codes for taxpayers with Employee Identification Numbers (EINs):

- SUMRY
- TXMODA
- BMFOLI
- BMFOLT

- (8) Employees must review the following IDRS command codes for taxpayers with Social Security Numbers (SSNs):

- SUMRY
- TXMODA
- IMFOLI
- IMFOLT

Note: TXMOD shows adjustments pending to post to the Master File. IMFOLT and BMFOLT display transactions that are posted to Master File.

- (9) When determining the penalty assessment amount and whether there are any limitations of the taxpayer's appeal rights, employees must review carefully the IDRS transcripts for a transaction code (TC) 240, Assessment of Miscellaneous Civil Penalty, and a TC 290, Additional Tax Assessment, with the applicable penalty reference code (e.g., 656). If the assessment amounts shown in IDRS is zero, then IRC 6715(b)(2) and IRC 6715(e) do not apply.
- (10) The GM reviews the case in IMS prior to approving the penalty proposal.
- (11) The GM notifies employees via secure e-mail or by telephone that the penalty proposal is either approved or not approved. This action is recorded in IMS within the Case Level Activities tab by the GM.
- (12) After approval from the GM, employees must issue Letter 3145, 30-Day Letter for Fuel Related Proposed Penalties, and the penalty package to the taxpayer within 5 business days. See IRM 4.24.16.2.5, Inspections Resulting in a Potential IRC 6715 Violation, through IRM 4.24.16.2.8, Inspections Resulting in a Potential IRC 6720A Violation, for guidance on what items are included in the penalty package.

- (13) The GM, after approving the proposed penalty, directs the group administrative assistant to establish the case on ERCS and to place the case in ERCS status 12 within two business days.
- (14) Employees must mail the case file to the GM at the same time the 30-day letter and the penalty package are issued.
- (15) Once the 30-day letter has been issued, the case remains in the employee's open case inventory on IMS until the GM notifies them of the DC to enter into IMS. Following input of the appropriate DC into IMS, the case must be closed and synchronized within 5 business days.

Note: All primary manual returns must be merged with ERCS to create a primary ERCS return before the case is finalized and closed.

4.24.16.2.4 (06-05-2023) **Case Closing Procedures for Penalty Proposals**

- (1) Employees must complete the following forms for every penalty case:
 - Form 5345-D, Examination Request-ERCS (Examination Returns Control System) Users
 - Form 8278, Assessment and Abatement of Miscellaneous Civil Penalties
 - Form 3198, Special Handling Notice for Examination Case Processing
- (2) Employees must complete Form 2363, Master File Entity Change, when an account needs to be established on Master File or when changes to the entity record are required (i.e., the taxpayer's name and/or address has changed). Employees must forward Form 2363 via secure e-mail to the group administrative assistant for processing. The group administrative assistant must forward the completed form to the Ogden Submission Processing (OSP) group either by fax at 1-855-214-7520 or by mailing the form to: Ogden Submission Processing, 1973 Rulon White Blvd, Ogden UT, 84404 Mail Stop 6273 via Form 3210, Document Transmittal. The group administrative assistant annotates the fax cover sheet or Form 3210 with required actions (i.e., TC and purpose selected by the employee on the completed Form 2363). The group administrative assistant annotates the date the form was either faxed or mailed to OSP on Form 3198, in the section directly below the "Taxpayer Name and Address" section, and on the copy of Form 2363.

4.24.16.2.4.1 (01-10-2020) **Instructions for Completing Form 5345-D for Penalty Proposals**

- (1) Employees must complete Form 5345-D. Pertinent sections on the form are detailed below. All other sections are self-explanatory.
 - a. Applicable inspection activity code (see table below)
 - b. Appropriate MFT that corresponds to the inspection activity code (see table below)

Activity Code	MFT
515 Terminal Inspections	D5
516 Wholesaler and Retailer Inspections	D6
517 Designated Inspection Site Screening and Inspections	D7

Activity Code	MFT
518 End User Inspections	D8

- c. The statute date is three years from the date of the inspection when the infraction occurred. The date is recorded using the month and day of the penalty. The year is computed using the current inspection date and adding three years to the current year.

Note: A violation occurring on February 1, 2019, will have a statute date of February 1, 2022.

- d. Check the appropriate box on Form 5345-D that indicates **Control Non-Aims DET Item**.

4.24.16.2.4.2

(01-10-2020)

Instructions for Completing Form 8278 for Penalty Proposals

- (1) Employees must complete Form 8278.
- Do not enter the penalty amount unless the taxpayer has agreed to the assessment or paid in full. The GM determines the penalty amount and records the amount on the form after administrative appeal (if any) is complete.
 - The statute date is recorded using the month and the day of the penalty. The year is computed using the current year and adding three years to the current year. For example, a penalty found on 2-01-2019 will have a statute date of 2-01-2022.
 - Section G - the number of penalties, always enter "1".
 - The three-digit penalty reason code entered in column (f) is the same as the penalty reference number listed in column (b). **Exceptions:** Use penalty reason code 665T for a penalty assessed under IRC 6715A(a)(1), and use penalty reason code 665S for a penalty assessed under IRC 6715A(a)(2).
 - Employees and their GM must sign Form 8278 electronically in IMS. This is accomplished by using an electronic ink signature file created in advance.
 - CCP returns the case to the originating field group if Form 8278 is not signed by both the employee and the GM.

4.24.16.2.4.3

(12-20-2016)

Instructions for Completing Form 3198 for Penalty Proposals

- (1) Employees must properly complete all applicable sections on Form 3198. These include the following:
- Business Unit
 - Employee Preparing Form
 - Taxpayer Name
 - Forms Enclosed, if applicable
 - Expedite Processing, if applicable
 - Special Features, if applicable
 - Forward to CCP
 - Tax Period and all applicable line items
- (2) Employees must complete Form 3198 with DC 12 for all dyed fuel penalty proposals.

Note: If the manager holds an informal conference and determines the case will be forwarded to Appeals or the penalty will not be assessed, see IRM

4.24.16.2.11(3), Case Processing-Managerial Responsibilities, for additional DC guidance.

4.24.16.2.4.4
(09-12-2013)
**Instructions for
Completing Form 2363**

- (1) Form 2363, is a multi-purpose form, divided into two sections entitled "From" and "To." The "From" section is used to record old information and the "To" section is used to record new information. The most common actions are requesting establishment of the entity on Master File or changes to the entity's name and/or address.
- (2) Employees must check the appropriate TC (listed below are the most common TCs) in the "From" section when requesting entity-related actions:
 - TC "000" to request establishment on Master File/IDRS
 - TC "013" to request a name change
 - TC "014" to request an address change
 - TC "015" to request a zip code change
- (3) Employees must complete all applicable fields in the "To" section that pertain to either establishing the entity on master file or changes to the existing taxpayer entity record on master file.

4.24.16.2.5
(06-05-2023)
**Inspections Resulting in
a Potential IRC 6715
Violation**

- (1) Employees must issue, or hand deliver Form 886-A, Explanation of Items, at the time of the inspection or by the next business day after a potential IRC 6715, Dyed Fuel Sold For Use Or Used In Taxable Use, Etc., violation is found.

Note: If the potential violation is found by a state employee, the IRS employee does not issue Form 886-A to the taxpayer for that violation. Rather, the IRS employee will include Notice 1416, State Penalty Notice, with the penalty package. This notice explains that the IRS is assessing a penalty for a violation based on information provided to the IRS from a state with an information-sharing memorandum of understanding (MOU).
- (2) The penalty package for IRC 6715 dyed fuel violation is the written notification informing the taxpayer of the proposed penalty. Employees must issue the penalty package within 5 business days after the GM notifies them of the approved penalty assessment.
- (3) The penalty package for IRC 6715 penalties includes:
 - a. Letter 3145, 30-Day Letter for Fuel Related Proposed Penalties
 - b. Form 12010, Report of Proposed Penalty - IRC 6715, (2 copies)
 - c. Form 12009, Request for an Informal Conference and Appeal Review, (2 copies)
 - d. Notice 1215, What to Do if You Disagree with the Fuel Penalty
 - e. Publication 1, Your Rights as a Taxpayer
 - f. Notice 1416, State Penalty Notice, if applicable
- (4) Employees must conduct a follow-up inspection within 60 days of the issuance of the penalty package to verify whether the taxpayer is complying with the law and that the violations previously cited are not recurring. The follow-up inspection is a separate inspection, and a violation found during that follow-up inspection is treated as subsequent penalty for purposes of IRC 6715(b)(2).

4.24.16.2.6
(06-05-2023)

**Inspections Resulting in
a Potential IRC 6715A
Violation**

- (1) The penalty package for IRC 6715A, Tampering With Or Failing To Maintain Security Requirements For Mechanical Dye Injection Systems, violation is the written notification informing the taxpayer of the proposed penalty. Employees must issue the penalty package within 5 business days after the employee's GM notifies the employee of the approved penalty assessment.
- (2) The penalty package for IRC 6715A penalties includes the following:
 - a. Letter 3145, 30-Day Letter for Fuel Related Proposed Penalties
 - b. Form 12012, Report of Proposed Penalty - IRC 6715A, (2 copies)
 - c. Form 12009, Request for an Informal Conference and Appeals Review, (2 copies)
 - d. Notice 1215, What to do if You Disagree with the Penalty
 - e. Publication 1, Your Rights as a Taxpayer
- (3) Employees must conduct a follow-up inspection within 60 days of the issuance of the penalty package to verify whether the taxpayer is complying with the law and that the violations previously cited are not recurring. The follow-up inspection is a separate inspection, and employees should create a separate case file in IMS for each inspection.

4.24.16.2.7
(06-05-2023)

**Inspections Resulting in
a Potential IRC 6717
Violation**

- (1) The penalty package for an IRC 6717, Refusal Of Entry, violation is the written notification informing the taxpayer of the proposed refusal penalty. Employees must issue the penalty package within 5 business days after the GM notifies the employee of the approved penalty assessment.
- (2) The penalty package for IRC 6717 penalties includes the following:
 - a. Letter 3057, Refusal Letter Under IRC 4083(d)
 - b. Form 12011, Report of Proposed Penalty - IRC 6717, (2 copies)
 - c. Form 12009, Request for an Informal Conference and Appeals Review, (2 copies)
 - d. Notice 1215, What to do if You Disagree with the Penalty
 - e. Publication 1, Your Rights as a Taxpayer

4.24.16.2.8
(06-05-2023)

**Inspections Resulting in
a Potential IRC 6720A
Violation**

- (1) The penalty package for an IRC 6720A, Penalty With Respect To Certain Adulterated Fuels, violation is the written notification informing the taxpayer of the proposed adulterated fuel penalty. Employees must issue the penalty package immediately after the GM notifies the employee of the approved penalty assessment.
- (2) The penalty package for IRC 6720A includes:
 - a. Letter 3145, 30-Day Letter for Fuel Related Proposed Penalties
 - b. Form 12013, Report of Proposed Penalty - IRC 6720A, (2 copies)
 - c. Form 12009, Request for an Informal Conference and Appeals Review, (2 copies)
 - d. Notice 1215, What to do if You Disagree with the Penalty
 - e. Publication 1, Your Rights as a Taxpayer
- (3) Employees must conduct a follow-up inspection within 60 days of the issuance of the penalty package to verify whether the taxpayer is complying with the law and that the violations previously cited are not recurring. The follow-up inspection is a separate inspection, and employees should create a separate case file in IMS for each inspection.

4.24.16.2.9
(01-10-2020)

**Case File Assembly for
Penalty Inspection
Cases**

- (1) Employees must follow the procedures outlined in this section for all penalty inspection case files.
- (2) Proper assembly of a case file minimizes delays, administrative problems, and procedural errors.

4.24.16.2.9.1
(06-05-2023)

**Case Assembly for
Paper Case Files**

- (1) Each penalty case file is placed in a separate folder.
- (2) All related cases are submitted together with the controlling case on top. The files must be bound securely together with a rubber band or strap to ensure they are not separated in error.
- (3) If more than one folder is submitted, the folders should be numbered (i.e., Folder 1 of 2, Folder 2 of 2, etc.), to easily identify if a portion of submission is missing.
- (4) All pertinent workpapers from each IMS case file must be printed and included in the case file.
- (5) The completed penalty case file is forwarded to the GM in a confidential envelope that states "to be opened by addressee only." Notify the GM by a secured e-mail message when the case file is sent. When the GM directs sending the completed penalty case file to the group administrative assistant, employees should send the secured e-mail notification to both the GM and group administrative assistant.
- (6) The case file should be mailed to the GM using current mailing procedures. See IRM 10.5.1.6.9.3, Shipping.
- (7) Affix the following forms to the outside of the folder, in order from top to bottom:
 - a. Form 3210, Document Transmittal
 - b. Form 3198, Special Handling Notice for Examination Case Processing

Note: Form 3198 should indicate whether a Form 3244-A, Payment Posting Voucher-Examination, Form 433-B, Collection Information Statement for Businesses, Form 9465, Installment Agreement Request, or Form 2848, Power of Attorney and Declaration of Representative, are in the file.

- (8) Affix the following forms and documents to the inside of the left-side of the folder:
 - a. Form 5346, Examination Information Report, if applicable
 - b. Form 2363, Master File Entity Change, if applicable
 - c. IDRS research (most recent at top)
 - (9) Affix the following forms to the inside of the right-side of the folder, in order from top to bottom:
 - a. Copy of approved Form 5345-D, Examination Request-ERCS (Examination Returns Control System) Users
- Note:** The original Form 5345-D is maintained at the group level and is not forwarded with the case file to CCP.

- b. Form 8278, Assessment and Abatement of Miscellaneous Civil Penalties
- c. Copy of the penalty package provided to the taxpayer, with the closing letter on top, followed by Form 12010, Form 12009, and any other documents sent to the taxpayer
- d. Form 886-A, Explanation of Items
- e. Copy of Form 3244-A, Payment Posting Voucher-Examination, if applicable
- f. Copy of Form 433-B, Collection Information Statement for Businesses, if applicable
- g. Form 9465, Installment Agreement Request, if applicable

Note: For more information on Forms 3244-A, 433-B and 9465 see IRM 4.24.16.5, Fuel Compliance Collection Duties.

- h. Form 2848, Power of Attorney and Declaration of Representative, if applicable
- i. Form 12175, Third Party Contact Report Form, and/or Form 12180, Third Party Contact Report Form, if applicable
- j. Case file history documentation with Form 9984 on top followed by IMS Comments workpapers and other history documents
- k. Lab results
- l. WSD State Penalty Checksheet, if applicable
- m. Case file portion of Form 9667, Sample Bottle Seals and Identification Labels, affixed to a workpaper or a blank sheet of paper
- n. Form 13927, Chain of Custody and Shipping Document
- o. Form 13926, Chain of Custody Control Document
- p. Form 14403, Investigative Sample Information, if applicable
- q. Supporting documents and photographs
- r. Research materials (i.e., IDRS, Accurint, etc.), if applicable

4.24.16.2.9.2
(06-05-2023)

**Indexing and Naming
Convention for IMS
Penalty Case Forms and
Workpapers**

- (1) IMS penalty case workpapers are created using a standardized naming and indexing convention. The conventions for inspection penalties will assist IMS Team Website users in locating IMS case file documents. The indexing and naming convention below addresses all referenced forms/documents contained in IRM 4.24.16.2.9.1, Case Assembly for Paper Case Files. The naming protocol consists of a letter and number followed by a description of the document.
- (2) Most of the penalty case documents, and related workpapers are in the "Workpaper Documents" repository within IMS, with the exception of those created and housed in the "Return Documents" repository. The naming conventions specified in this section are **not** required for:
 - a. Form 3198, Special Handling Notice for Examination Case Processing
 - b. Form 5345-D, Examination Request-ERCS (Examination Returns Control System) Users
 - c. Form 8278, Assessment and Abatement of Miscellaneous Civil Penalties
- (3) The IMS naming and indexing convention for forms, letters and workpapers is in the table below:

Naming and Indexing Convention	Forms and Workpapers
A	<ul style="list-style-type: none"> • A1 - Form 3210

Naming and Indexing Convention	Forms and Workpapers
B	<ul style="list-style-type: none"> • B1 - Form 5346 • B2 - Form 2363 • B3 - IDRS Research
C1	<ul style="list-style-type: none"> • C1 - Letter 3145 • C1-1 - Forms 12010, 12012, 12013, or 12014 • C1-2 - Penalty Calculation • C1-3 - Form 12009 • C1-4 - Form 886-A • C1-5 - Notice 1215 • C1-6 - Publication 1 • C1-7 - Notice 1416
C2	<ul style="list-style-type: none"> • C2 - Form 3244-A • C2-1 - Form 433-B • C2-2 - Form 9465 • C2-3 - Form 12175 • C2-4 - Form 12180
C3	<ul style="list-style-type: none"> • C3 - Form 9984 • C3-1 - Inspection Compliance Form, checksheet or other inspection workpapers completed • C3-2 - Case Comments • C3-3 - WSD State Penalty Checksheet, if applicable
C4	<ul style="list-style-type: none"> • C4 - Sample #NNNNNNN Lab results. • Additional lab results will be listed as C4-1, C4-2 etc.
C5	<ul style="list-style-type: none"> • C5 - Form 13927 • C5-1 - Form 13926 • C5-2 - Form 14403
C6	<ul style="list-style-type: none"> • C6 - Descriptive name of truck or tank. Use C6-1, C6-2, etc. for additional photographs • Use the next number (e.g., C6-3) followed by descriptive name of the document
C7	<ul style="list-style-type: none"> • C7 - Accurint research

4.24.16.2.10
(01-10-2020)

**Centralized Case
Processing (CCP)**

- (1) All proposed penalty case files are processed through CCP, including cases that result in a penalty assessment and cases in which the GM determines that a penalty does not apply (no-change).
- (2) CCP:
 - a. Receives all penalty case files (forwarded via Form 3210).
 - b. Processes all closed penalty case files and updates to status 90 on ERCS. If issues arise regarding ERCS/Audit Information Management System (AIMS), the group secretaries should contact their local ERCS/ AIMS analyst for resolution.

4.24.16.2.11
(01-10-2020)

**Case Processing-
Managerial
Responsibilities**

- (1) The GM is responsible for the following case actions:
 - a. Review all proposed penalty cases in IMS
 - b. If agreeing with the proposed penalty, approve Form 5345-D and notify the employee that the penalty is approved
 - c. Establish all penalty proposals on ERCS and update to status 12 within two (2) business days after determining to pursue a penalty
 - d. Monitor the expiration of the "30-day" statutory period for penalty cases
 - e. Record the appropriate penalty amount on Form 8278 prior to sending the penalty case file to CCP, if a penalty applies
 - f. If the penalty is not approved or will not be applied, Form 3198 will be updated to reflect DC 02 (no-change) and the case will be updated to DC 02, prior to closing
 - g. Update the case to status 51 and close to CCP, after the "30-day" statutory period expires if the taxpayer has not responded to the notice
 - h. Record in IMS all contacts with the taxpayer and results of the case review. The actions taken by the GM must be recorded in IMS within the Case Level Activities tab.
- (2) If, because of the managerial conference or other reason, the GM determines not to assert a penalty, the GM will enter "zero" dollar amounts on Form 8278 and Form 3198. The electronic versions of Form 8278 and Form 3198, included in the IMS case file, must be updated to reflect changes made to these forms.
- (3) Once the disposition of the case is determined (i.e., no-change, penalty assessed or case being forwarded to Appeals), the GM must notify the employee to enter one of the following DCs in IMS and close the case in IMS.
 - DC 02 - No adverse action (no-change)
 - DC 12 - Proposed penalty will be closed to CCP and assessed
 - DC 07 - Unagreed to Appeals

Note: The GM must update both the electronic and paper copy versions of Form 3198 with the appropriate DC after the employee has updated the file in IMS.
- (4) For a case forwarded to Appeals, the GM must follow IRM 4.24.16.3.1, Appeals Case Routing Procedures for Penalty Cases.
- (5) Once the disposition of the case has been determined and all required actions taken, the GM must set the Manager Concurrence to "Yes" in IMS for all cases that are established on ERCS, regardless of how the case closed.

4.24.16.3
(06-05-2023)
Administrative Appeal of Fuel Penalty

- (1) Unless specifically excluded from Appeals consideration, taxpayers have the right to request an Appeals conference of a proposed IRC 6715, IRC 6715A, IRC 6720A, and/or IRC 6717 penalty if the taxpayer submits an adequate written request. See IRM 4.10.8.12.9.3, Request for Appeals Conference, for guidance on determining whether the request is adequate.

Note: See (6) below for one specific exclusion from the right to an Appeals conference.

- (2) Although the taxpayer may contact the GM to discuss the inspection at any time prior to its completion, the administrative appeals process does not begin until the penalty package is issued.
- (3) The penalty package includes penalty appeal instructions to the taxpayer. The taxpayer must complete Form 12009, Request for an Informal Conference and Appeals Review and send it to the GM within 30 days of receipt of the penalty package for an informal conference. If the issue is not resolved in the informal conference, the GM will forward the case to Appeals, unless the taxpayer specifically requests the case not be sent for the Appeals conference. The GM will annotate Form 12009 with the date of the taxpayer's request.

Note: See (6) below for one specific exclusion from the right to an Appeals conference.

- (4) An incomplete request for an Appeals conference must be returned to the taxpayer and additional time granted to perfect the document.
- (5) If the taxpayer requests an appeal of the penalty after the 30-day period ends, the taxpayer must pay the penalty and then file a claim for refund of the penalty paid.

Note: If the penalty is paid in full, then the request is considered a claim for refund. An abatement request applies only to unpaid assessments or portions of assessments.

See IRM 4.24.16.4, Claim for Refund of Fuel Compliance Penalties.

- (6) Under IRC 6715(e), a person's right to appeal an IRC 6715 violation is limited if that person was penalized under that section at least twice previously, after October 22, 2004. The person may file an appeal, only if the grounds for the appeal are:
- a. Fraud or a mistake in the chemical analysis
 - b. A mathematical calculation of the amount of the penalty
- (7) The GM should complete all actions (e.g., securing a consent, perfecting, or rebutting a protest, holding a GM conference, etc.) within 20 days of receipt of the written protest, unless the case requires additional development.
- (8) The GM will record in the Case Level Activities tab on IMS all actions taken, decisions made and contacts with the taxpayer.
- (9) The table below contains administrative appeal procedures.

If	Then
The taxpayer disagrees with the penalty and wants an appeal	The taxpayer must complete Form 12009 and send it to the GM within 30 days of receipt of the proposed penalty package.
The taxpayer submits Form 12009, requesting an informal conference	The GM will attempt to resolve the disputed issue(s). If the taxpayer has been penalized twice previously under IRC 6715 after October 22, 2004, the GM will inform the taxpayer of the limited grounds for an appeal under IRC 6715(e).
The informal conference results in an agreement	The GM issues Letter 3165, Results of Dyed Fuel or Refusal Penalty Informal Conference, and two copies of Form 12010 (if a penalty will be assessed). The taxpayer has 30 days to respond.
The taxpayer does not respond to the Letter 3165 within 30 days	The GM will direct the group administrative assistant to update the case to status 51 and close the case to CCP on ERCS and the penalty will be assessed. Penalty amounts will be entered on both Form 3198 and Form 8278.
The informal conference does not result in an agreement	The GM will either close the case unagreed to CCP, or if the taxpayer requests, the case will be forwarded to Appeals. Letter 3142, Dyed Fuel Penalty Case to Appeals, will be issued advising the taxpayer of the decision and the actions to follow. The GM will advise the employee to enter DC 07 in IMS. See IRM 4.24.16.3.1, Appeals Case Routing Procedures for Penalty Cases.
The informal conference results in the penalty no longer being proposed	The GM issues Letter 3165, Results of Dyed Fuel or Refusal Penalty Informal Conference. The case is updated to status 51 and closed to CCP on ERCS. DC 02 is used on ERCS to reflect a no change penalty case.

4.24.16.3.1
(06-05-2023)
**Appeals Case Routing
Procedures for Penalty
Cases**

- (1) The GM must notify the employee to enter DC 07 in IMS, once it is determined that the case will be forwarded to Appeals. Once the DC is entered, the case must be closed and synchronized on IMS.
- (2) Appeals has specially trained appeals officers (AOs) who handle excise tax and dyed diesel penalty cases referred to Appeals. Procedures and information on dyed fuel penalties being referred to appeals can be found in IRM 8.7.10.13, Dyed Diesel Fuel Penalty Cases.
- (3) Appealed cases will be closed on ERCS to Tech Services. The case must be updated to status 21 and DC 07. In addition, the appropriate tech services code (TSC) must be entered for the Technical Services group in your area.
- (4) Appealed cases will be mailed to the appropriate Tech Services address based on the TSC code.
- (5) Employees must complete Form 3198, Special Handling Notice for Examination Case Processing, as follows:
 - a. In the **Forward to Technical Services** section, the boxes **Unagreed to Appeals** and **Other** must be checked.
 - b. In the space next to **Other**, insert **Forward to APS Carding Team (non-collection cases). Unagreed Excise case please assign to Appeals Officer trained in Excise** and insert the proper address for case routing.
 - c. In an unnamed section below the "Other" section, check the box for "Forward to Tech Services - Update to Status 21." Enter the "Date Closed to Manager" and "Manager Name."
- (6) Form 3210 should include a statement that the case should be carded in and assigned to an Appeals Officer trained in Excise.
- (7) Tech Services will send the case to the Appeals Account and Processing Support (APS) office based upon the state the taxpayer resides in.
- (8) Cases must include the following:
 - a. Complete inspection file with statements regarding all facts made by the employee, taxpayer, and GM
 - b. Relevant workpapers indicating fuel tank measurement procedures, location of additional dyed fuel tanks, and confirmation of responsible party
 - c. Computation of the penalty
 - d. Results of the EFL testing
 - e. Record of all taxpayer contacts, including results of the informal appeal with the GM

Note: The GM must ensure Form 12009, Request for an Informal Conference and Appeals Review, is completed including the bottom portion (i.e., Date of Taxpayer Request for Appeals Review and Supervisor Date and Initial).

 - f. Prior inspections, both violation and non-violation, if available

4.24.16.3.2
(12-20-2016)

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

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

4.24.16.4
(09-12-2013)

**Claim for Refund of Fuel
Compliance Penalties**

- (1) The taxpayer may dispute a penalty that has been paid in full by filing Form 843, Claim For Refund and Request for Abatement.
- (2) Dyed fuel claims are processed through the CCSC and forwarded directly to the appropriate territory manager.
- (3) The territory manager must forward the claim to the appropriate GM via Form 3210.
- (4) The GM must consider the facts and documentation accompanying the claim to make a determination. The GM may disallow the claim in full, partially allow the claim or fully allow the claim.
- (5) Once the GM makes a determination regarding whether to allow the claim, the GM must complete and issue, Letter 5008, Fuel Penalty Claim, to the taxpayer.
- (6) The GM must send the completed claim file back to the CCSC via Form 3210.
- (7) These claims are not controlled on ERCS.
- (8) For additional guidance, refer to IRM 4.24.8, Examination Guidance for Excise Claims for Refund or Abatement.

4.24.16.5
(06-05-2023)

**Fuel Compliance
Collection Duties**

- (1) Letter 3145, 30-Day Letter for Fuel Related Proposed Penalties, included in the penalty package, instructs the taxpayer to send the payment to the address of record for the originating employee.
- (2) If a taxpayer contacts employees regarding payment of a penalty, employees should first solicit full payment. Employees may also refer the taxpayer to IRS.gov to *Pay Online*. Refer to IRM 4.20.1.3.1, Request for Full Payment, for more information.
- (3) Employees may not accept cash for the payment of the penalty.
- (4) If a check or money order is received as payment for the penalty, the following actions must be taken:
 - a. Complete Form 3244-A, Payment Posting Voucher-Examination.
Note: See IRM 3.8.45.5, Payment Perfection Procedures, for instructions on how to complete Form 3244-A.
 - b. Update IMS case history to reflect the receipt/collection of funds.

- (5) If the taxpayer cannot pay in full, employees should solicit from the taxpayer:
- Form 9465, Installment Agreement Request, and
 - Form 433-B, Collection Information Statement for Businesses.
- (6) If employees receive a “completed” Form 9465 from the taxpayer, employees will:
- a. Complete Form 3177, Notice of Action for Entry on Master File. In the “other (specify)” box record “TC 971/AC 43” and record the MFT(s) and tax period(s) that apply.
 - b. Fax the completed Form 3177 to General Case Processing within 24 hours of receipt from the taxpayer, using fax number (855) 389-1533 ATTN: GCP.
 - c. Place Form 9465 and Form 433-B in the case file. The completed case file with Form 9465 and Form 433-B should be sent to CCP. Form 3198 must be marked accordingly to indicate that Form 9465 and Form 433-B are enclosed in the file.
- Note:** Employees are not required to verify information on Form 433-B. The employee’s role is to collect the information while working with the taxpayer for quicker processing by Collection when it is received.
- (7) If the taxpayer is unable or unwilling to provide a Form 9465, employees may coordinate with Collection using locally established procedures. A referral is mandatory for agreed, unpaid cases over \$100,000. Refer to IRM 4.20.1.3.4, Coordinate with Collection.
- (8) If the taxpayer is a qualified taxpayer, they can apply for a payment plan (including installment agreement) online to pay off their balance due over time. Employees may refer the taxpayer to IRS.gov to determine if they qualify and *Apply Online for a Payment Plan*.

