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Department of the Treasury
Internal Revenue Service

4.25.13

OCTOBER 7, 2021

EFFECTIVE DATE

(10-07-2021)

PURPOSE

- (1) This transmits revised IRM 4.25.13, Estate and Gift Tax, Appeals, Mediation, and Settlement Procedures.

MATERIAL CHANGES

- (1) IRM 4.25.13.1.2 paragraph (3) was revised to add a subsection title to the IRM citation.
- (2) IRM 4.25.13.1.5 paragraph (1), bullet list was revised to add a citation to IRM 8.7.4, Appeals, Technical and Procedural Guidelines, Appeals Estate and Gift Tax Cases. Paragraph (5) was added to remind examiners of their taxpayer bill of rights compliance requirements. TBOR content updated based on guidance from the Division Counsel/Associate Chief Counsel (National Taxpayer Advocate Program) and Branch 3 of the Associate Chief Counsel (Procedure and Administration).
- (3) IRM 4.25.13.2 was revised to provide updated IRM citations and IRM subsection titles.
- (4) IRM 4.25.13.3.2, Unagreed Estate and Gift Tax Case is a new subsection that provides a bullet list of citations to IRM 4.25 subsections that address the issuance of 30-day letters, reviewing and responding to taxpayer protests, review and comment procedures for new information received in Appeals, and closing an unagreed case to Appeals.
- (5) Editorial changes have been made throughout this IRM. Website addresses, legal references, and IRM references were reviewed and updated as necessary.

EFFECT ON OTHER DOCUMENTS

IRM 4.25.13 dated July 12, 2018, is superseded.

AUDIENCE

This section contains instructions and guidelines for Small Business/Self-Employed Estate and Gift Tax Specialty Programs employees.

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Small Business/Self-Employed

4.25.13

Appeals, Mediation, and Settlement Procedures

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4.25.13.1
(07-12-2018)
Program Scope and Objectives

- (1) **General Overview** - This IRM provides information about Estate and Gift Tax examination Appeals, Mediation and Settlement procedures.
- (2) **Purpose** - This IRM explains the processes and procedures used by Estate and Gift examiners to obtain asset valuation assistance so that managers, senior-level officials and estate, gift and generation-skipping transfer tax return examiners will be better equipped to prepare and submit accurate reports.
- (3) **Audience** - This IRM is for Estate and Gift Specialty Tax managers, examiners and personnel at the campus who examine and process estate, gift and generation-skipping transfer tax returns, refunds and claims.
- (4) **Policy Owner** - Director, Examination - Specialty Policy is responsible for the administration, procedures and updates related to the technical guidance and information processing steps and methods specific to Estate and Gift Tax examiner responsibilities, IRM subsections, and forms created for the examination of returns and claims.
- (5) **Program Owner** - Director, Examination - Specialty Examination owns Estate and Gift Tax Examination.
- (6) **Primary Stakeholders** - Advisory Collections, Appeals, Art Appraisal Services, Counsel, Estate and Gift Tax Workload Selection and Delivery, Specialty Examination, and SB/SE Examination Quality & Technical Support are the primary stakeholders for this IRM.

4.25.13.1.1
(07-12-2018)
Background

- (1) This IRM explains appeals and alternative dispute resolution techniques specific to the Estate and Gift Tax program.

4.25.13.1.2
(10-07-2021)
Authority

- (1) Estate and gift tax examiners and managers assigned to examine and oversee the examination of estate and gift tax returns and issues are responsible for complying with servicewide policies and authorities set forth in IRM 1.2.1.5, Servicewide Policies and Authorities, Policy Statements for the Examining Process.
- (2) Examination of estate and gift tax returns should be conducted in a manner that will promote public confidence as stated in the Mission of the Service. See IRM 1.2.1.2.1, Policy Statement 1-1.
- (3) Policy Statement 4-52 established a general guideline that examination and processing of returns should be completed within 18 months of the filing date. See IRM 1.2.1.5.18, Policy Statement 4-52, Establishment of 18-month Examination Cycle.
- (4) Estate and gift examiners and managers assigned to examine and oversee the examination of international estate and gift tax returns and issues are responsible for complying with all applicable servicewide examination delegation orders and SB/SE delegation orders. A table summarizing estate and gift delegation orders is available at IRM 4.25.14.10, Estate and Gift Tax, Miscellaneous Procedures, Signature Authority.
- (5) Section 3504 of RRA 98, Public Law 105-206 requires the Service to include an explanation of the examination and collection process, as well as informa-

tion about assistance from the Taxpayer Advocate with any first report/notice of proposed deficiency. Pub 3498, The Examination Process, must be used for this purpose.

- (6) Statement of Procedural Rules 601.506 requires that examiners must forward any correspondence (or copy), discussions, reports and/or other material to the taxpayer at the same time it is sent to the representative.
- (7) The Form 706 return instructions and CFR 20.6018-4, CFR 25.6019-3, and CFR 25.6019-4 list required filing documents.
- (8) Rev. Proc. 2017-25 formally established the Fast Track Settlement program.

4.25.13.1.3
(07-12-2018)

**Terms/Definitions/
Acronyms**

- (1) The following table sets forth commonly used terms and acronyms:

Term	Acronym
Alternative Dispute Resolution	ADR
Appeals Officer	AO
Fast Track Settlement	FTS
National Quality Review System	NQRS
Quality Measures and Analysis	QMA
Rapid Appeals Process	RAP
Small Business/Self-Employed	SB/SE

4.25.13.1.4
(07-12-2018)

**Program Objectives and
Review**

- (1) The National Quality Review System (NQRS) is a web-based review system used by Estate and Gift Tax Policy, Estate and Gift Tax Examination Management, and Estate and Gift Tax Quality Measures and Analysis (QMA) to generate and review reports analyzing national quality performance based upon standardized quality attributes set forth in Document 12499, Estate and Gift Tax Examination Embedded Quality Job Aid. NQRS report data is compiled by QMA on a quarterly basis, but **ad hoc** reports may be obtained monthly. The use of NQRS is explained in additional detail in IRM 4.25.1.8, Manager Embedded Quality Review and Specialty Exam National Embedded Quality Review Programs.
- (2) Operational Reviews and related NQRS reports are conducted by Territory Managers and the Chief of Estate and Gift to measure national adherence to quality standards and managerial performance and/or oversight.
- (3) Customer (i.e. taxpayer) satisfaction reports are generated by SB/SE Operation Support Research on a quarterly basis. These reports provide masked taxpayer narratives that are responsive to a pre-defined set of survey questions. The quarterly survey reports are to be used to identify areas for examination quality improvement.
- (4) Frequent Front-line manager reviews are conducted under the Examination Quality Review System (EQRS), with the frequency based on annual personnel requirements.

4.25.13.1.5
(10-07-2021)

Related Resources

- (1) The Estate and Gift Tax program is required to follow all servicewide examination procedures and those set forth in SB/SE examining process IRM. The following resources provide additional information relating to the processing, classification, examination and appeal of Estate and Gift Tax program returns and claims:
 - IRM 4.25.1, Estate and Gift Tax, Estate and Gift Tax Examinations
 - IRM 4.25.2, Campus Estate and Gift
 - IRM 4.25.3, Planning, Classification and Selection
 - IRM 4.25.4, International Estate and Gift Tax Examinations
 - IRM 4.25.5, Technical Guidelines for Estate and Gift Tax Issues
 - IRM 4.25.6, Report Writing Guide for Estate and Gift Tax Examinations
 - IRM 4.25.7, Estate and Gift Tax Penalty and Fraud Procedures
 - IRM 4.25.8, Delinquent Returns and SFR Procedures
 - IRM 4.25.9, Requests for Abatement, Claims for Refund and Doubt as to Liability in Estate and Gift Tax Cases
 - IRM 4.25.10, Case Closing Procedures
 - IRM 4.25.11, Special Examination Procedures
 - IRM 4.25.12, Valuation Assistance
 - IRM 4.25.14, Estate and Gift Tax, Miscellaneous Procedures
 - IRM 8.7.4, Appeals, Technical and Procedural Guidelines, Appeals Estate and Gift Tax Cases
 - Pub 5, Your Appeal Rights and How to Prepare a Protest if You Disagree
- (2) Additional resources to assist in the protection against prohibited *ex parte* communication are found in:
 - Rev. Proc. 2012-18, Ex Parte Communications Between Appeals and Other Internal Revenue Service Employees,
 - IRM 8.1.10.2, Communications Not Considered Ex Parte
 - IRM 8.1.10.2.1, Database Inquiries
 - IRM 8.1.10.2.1.1, Communications Between Appeals Employees
 - IRM 8.1.10.2.1.2, Taxpayer Advocate Service (TAS)
 - IRM 8.1.10.2.1.3, IRS Functions Not Considered an Originating Function
 - IRM 8.1.10.2.1.4, Other Governmental Agencies
 - IRM 8.1.10.3, Multifunctional Meetings and Coordinated Issues
 - IRM 8.1.10.4, Communications with Originating Functions
 - IRM 8.1.10.4.1, Permissible Communications
 - IRM 8.1.10.4.1.1, Ministerial, Administrative and Procedural Matters
 - IRM 8.1.10.4.1.2, Premature Referrals
 - IRM 8.1.10.4.1.3, New Information Received or New Issues Raised
 - IRM 8.1.10.4.1.4, Post-Settlement Conferences
 - IRM 8.1.10.4.1.5, Docketed Cases
- (3) Additional FTS program information can be found in IRM 8.26.2, Fast Track Settlement for Small Business/Self Employed (SB/SE) Taxpayers.
- (4) Additional RAP program information can be found in:
 - IRM 8.26.11, Rapid Appeals Process
 - Pub 5083, Welcome to ATCL Operations
 - Letter 5248, Introduction to Rapid Appeals Process
 - Form 14525, Waiver of Restrictions on Ex Parte Communications in Rapid Appeals Process

- (5) The Taxpayer Bill of Rights (TBOR) lists rights that already existed in the tax code, putting them in simple language and grouping them into 10 fundamental rights. Employees are responsible for being familiar with and acting in accord with taxpayer rights. See IRC 7803(a)(3), Execution of Duties in Accord with Taxpayer Rights. For additional information about the TBOR, see *Taxpayer Bill of Rights*.

4.25.13.2
(10-07-2021)
Appeals Process

- (1) This section provides information specific to the Appeals Process. Guidance as to the preparation of an unagreed case report, issuance of a 30 day letter and closure of a protested case to Appeals is provided in IRM 4.25.6, Estate and Gift Tax, Report Writing for Estate and Gift Tax Examinations, and IRM 4.25.10.7, Estate and Gift Tax, Case Closing Procedures, Unagreed Adjustment Tax Period.

4.25.13.2.1
(07-12-2018)
Ex Parte Communications

- (1) Rev. Proc. 2012-18, Ex Parte Communications Between Appeals and Other Internal Revenue Service Employees, and IRM 8.1.10, Appeals Function, Ex Parte Communications, provide guidance regarding the prohibition of *ex parte* communications between Appeals Officers and other Internal Revenue Service employees, to the extent that those communications appear to compromise the independence of the Appeals Officers. An *ex parte* communication is a communication that takes place between any Appeals employee (e.g., Appeals Officers, Settlement Officers, Appeals Case Team Leaders, Appeals Tax Computation Specialists) and employees of other IRS functions, without the taxpayer or the taxpayer's representative being given an opportunity to participate in the communication. *Ex parte* communications may include oral and written forms of communication. Written communications include those that are manually or electronically generated. If a communication is a prohibited *ex parte* communication, the taxpayer or the taxpayer's representative must be given an opportunity to participate in that communication.
- (2) Not all communications are within the scope of the term *ex parte* communication. To determine whether a communication is an *ex parte* communication, see the guidelines as set forth in the IRM 8.1.10.
- (3) The prohibition on *ex parte* communications applies to preconference meetings between Appeals and Examination (Estate and Gift). A preconference meeting could appear to compromise the independence of Appeals. See Rev. Proc. 2012-18. Accordingly, Appeals will hold a preconference meeting only after giving the taxpayer or the taxpayer's representative an opportunity to participate.

4.25.13.2.2
(07-12-2018)
Appeals Preconference Procedures

- (1) Preconference meetings may be held between Appeals Officers and Estate and Gift examiners on protested cases containing unusual or complex issues. A determination regarding what is an unusual and complex issue will be left to the discretion of the Estate and Gift examiner and Appeals Officer.
- (2) The purpose of a preconference is to discuss the issues, protest, and Estate and Gift's written rebuttal to the protest in cases containing complex or unusual issues. A frank discussion of the issues will help to identify additional information that may be needed on the issues. The need for any resources, specialists, or expert witnesses, etc., can be discussed at this meeting. Estate and Gift is encouraged to share its views on the disputed issues, including its assessment of the facts and the law leading to recommended adjustments on particular issues. The conference is not to be used as a vehicle for securing a

commitment from Appeals to defend any particular issues, commit to particular settlement positions, or otherwise “negotiate” the settlement posture of Appeals on the case.

- (3) Preconference meetings will take place prior to the Appeals/Taxpayer conferences.
- (4) If a preconference is requested by Estate and Gift, the request should accompany the file when it is sent to Appeals. The request will be made in writing in a separate memorandum (to be contained in the case file) and signed by the Estate and Gift group manager.
- (5) Review of Taxpayer Protest and Preparation of the Rebuttal in Non-docketed Cases:
 - a. Before forwarding the case to Appeals, the examiner will review any new information, new issue, or new arguments raised by a taxpayer or representative in the protest to determine the field office’s position before preparing a written rebuttal. The rebuttal is not intended to restate positions taken in the examination report, but to address any new information or new issues raised in the protest. A copy of the Estate and Gift examiner’s rebuttal will be provided to the taxpayer and/or representative before sending the case to Appeals for consideration.
 - b. The protest rebuttal will reference the request for a preconference and refer to the separate request memorandum from the Estate and Gift group manager. This will alert the Appeals Officer to look for the preconference request memorandum.
 - c. Factual differences between the Estate and Gift report and the protest will be reconciled. Rebuttals will be secured from specialists, such as engineers, economists, appraisers, etc., who provided background data, assumptions, etc., used to formulate the Estate and Gift positions. These reports will be included in the administrative file with the protest and provided to the taxpayer or representative before sending the case to Appeals for consideration.
 - d. Estate and Gift will try to seek technical advice on novel and unique issues prior to Appeals’ consideration.
 - e. Changes in Estate and Gift positions made during the review process will be clearly reflected in the revised report and include any tax re-computations.
- (6) If a preconference initiated by either party is accepted (by the other party), the acceptance need not be in writing, but acceptance should be communicated expeditiously to the other party.
- (7) A request by either party will address the unusual or complex factual or legal issues that warrant the preconference.
- (8) Either party can decline the other’s request for a preconference by submitting a response (including an e-mail) to that effect signed by the AO or Estate and Gift examiner and submitted to the other party with copies to the respective managers.
- (9) Despite these preconference procedures, the AO remains responsible for complying with the statute procedures outlined in IRM 8.21, Appeals Statute Responsibilities.
- (10) Participation in a Preconference:

- a. The AO will arrange the preconference meeting.
- b. Appeals and the operating division will each identify its participants in the preconference.
- c. The participants may include other specialists if determined necessary by Estate and Gift.
- d. The parties will determine the location and method of the preconference on a case-by-case basis.

4.25.13.2.3
(10-07-2021)
**Unagreed Estate and
Gift Tax Case**

- (1) Unless specifically excluded from Appeals consideration, all cases are eligible for an Appeals conference if the taxpayer submits an adequate formal written protest (when required), or small case request as directed in Pub 5, Your Appeal Rights and How to Prepare a Protest if You Disagree. IRM 4.25.10.7, Estate and Gift Tax, Case Closing Procedures, Unagreed Adjustment Tax Period, and IRM 4.25.10.8, Partially Agreed, Partially Unagreed Case, provide detailed guidance for estate and gift examiners on issuing a 30-day letter, responding to a taxpayer's protest and closing an unagreed case:
 - IRM 4.25.10.7, Unagreed Adjustment Tax Period
 - IRM 4.25.10.7.1, Unagreed No Change with Adjustment - No Immediate Tax Consequences
 - IRM 4.25.10.7.2, Unagreed No Change with Adjustment Gift Tax Period - IRC 7477 Procedures
 - IRM 4.25.10.7.3, 30-Day Letter Procedures
 - IRM 4.25.10.7.3.1, 30-Day Letter Procedures - Examiner
 - IRM 4.25.10.7.3.2, 30-Day Letter Procedures - Group Manager
 - IRM 4.25.10.7.3.3, Taxpayer's Protest
 - IRM 4.25.10.7.3.4, New Information Provided By taxpayer to Appeals After 30-Day Letter
 - IRM 4.25.10.7.4, Statutory Notice of Deficiency Procedures
 - IRM 4.25.7.6, Placing a Case into Suspense Using Form 1254
 - IRM 4.25.10.8, Partially Agreed, Partially Unagreed Case
 - IRM 4.25.10.8.1, Closure of Agreed Portion
 - IRM 4.25.10.8.2, Closure of Unagreed Portion

4.25.13.3
(07-12-2018)
**Fast Track Settlement
(FTS)**

- (1) The Fast Track Settlement (FTS) Program offers Estate and Gift personnel a way to resolve audit issues utilizing the settlement authority and mediation skills of Appeals while retaining jurisdiction of the case. Appeals and SB/SE jointly administer the FTS Program. FTS is designed to be completed within 60 days. SB/SE, the taxpayer and Appeals are active participants in the process, and all three parties must agree before a proposed resolution can be implemented. The Appeals FTS Official uses mediation techniques to lead SB/SE and the taxpayer to self-determine the likely outcome of the dispute. See IRM 8.26.2 , Alternative Dispute Resolution (ADR) Program, Fast Track Settlement for Small Business/Self-Employed (SB/SE) Taxpayers for more information.
- (2) FTS is an expansion of the taxpayer dispute resolution options and does not eliminate or replace other resolution options. FTS may apply when SB/SE and the taxpayer have exhausted exiting issue resolutions strategies within SB/SE, including the Group Manager's (GM) conference, and now want to use mediation to reach resolution. Taxpayers who disagree with proposed adjustments will also be informed of their right to the following:
 - Request an appeal with the Appeals office, or
 - Pay any deficiency and file a claim for refund or file a protective claim for refund.

- (3) Fast Track Mediation is no longer available for Estate and Gift Tax examination case resolution. Fast Track Mediation is now only available for collection matters.
- (4) FTS differs from the Rapid Appeals Process in that the case remains under examination's jurisdiction.
 - a. The prohibition against *ex parte* communications between Appeals Officers and other IRS employees provided by Section 1001(a) of the Internal Revenue Service Restructuring and Reform Act of 1998 does not apply to the communications arising in the SB/SE FTS process because the Appeals personnel are facilitating an agreement between the taxpayer and SB/SE and are not acting in their traditional Appeals settlement role. See Rev. Proc. 2012-18 for additional guidance on *ex parte* communications.
- (5) The FTS process is confidential with respect to all parties, pursuant to IRC 6103. Therefore, all information concerning any dispute resolution communication is confidential and may not be disclosed by any party except as provided under 5 USC 574.
- (6) Examiners should discuss appeals rights, including alternative dispute resolution, with taxpayers during the first interview/contact to ensure that taxpayers understand their options. Examiners should also revisit the FTS option with the taxpayer when the audit is reaching its final stages and the taxpayer does not agree with the examination findings and issues. See IRM 8.26.2, Alternative Dispute Resolution (ADR) Program, Fast Track Settlement for Small Business/Self-Employed (SB/SE) Taxpayers.
 - a. For eligible cases, FTS should be offered prior to the issuance of a 30-day letter. If the case is eligible for FTS and the 30-day letter has been issued, requests for FTS can still be referred to Appeals for consideration.

4.25.13.3.1
(07-12-2018)
**Determining Eligibility
for Fast Track
Settlement**

- (1) Before FTS is offered as an option to the taxpayer, the examiner must establish eligibility. The examiner should discuss potential issue(s) and any questions about the application with their group manager prior to offering FTS to the taxpayer.
- (2) SB/SE FTS is generally available for all non-docketed SB/SE cases with no regard to dollar amount. There are cases that are excluded from FTS.
- (3) Examples of cases that do not qualify for SB/SE FTS include the following:
 - Docketed cases
 - Cases with numerous issues, whether simple or complex, which will require longer than 60 days to resolve
 - Cases where SB/SE or the taxpayer are unable to meet during the 60 day time frame
 - High profile, sensitive taxpayers or issues
 - No-Show Cases: i.e., taxpayers who have failed to respond to Service communications and no documentation has been previously submitted for consideration
 - Non-filer Cases
 - Frivolous filers
 - Whipsaw issues

- (4) If the examiner and his or her group manager determine that a taxpayer's request for SB/SE Fast Track Settlement is ineligible because it is excluded from FTS the reasons for ineligibility should be explained to the taxpayer in writing.
- (5) If one issue in a case is determined to be ineligible for SB/SE FTS, all issues in the case are deemed ineligible.
- (6) Any request by the taxpayer for FTS that is denied by the SB/SE group manager, other than defined excluded cases, requires review and concurrence by the SB/SE Territory Manager. A decision by the SB/SE Territory Manager not to accept a case into FTS is final and the taxpayer will be notified of any such denial by SB/SE.
- (7) All unagreed case issues must be fully developed prior to being accepted into the FTS program. A case is considered fully developed when:
 - The case can be written up as unagreed with a 30-day or 90-day letter.
 - Includes basis in fact and/or law for the conclusion(s) reached.
 - All issues are defined.
 - Contains properly documented lead sheets and workpapers supporting the examiner's position. Facts, procedures, audit techniques, management involvement, applicable law, conclusions, and adjustments should be fully documented.
 - Has all necessary referrals and reports/recommendations generated as a result of those referrals.
 - Has been reviewed the by the examiner's group manager.
- (8) Examiners should provide Pub. 5022, Fast Track Settlement, A Process For Prompt Resolution of SB/SE Tax Issues, upon determining the case is eligible for FTS and there are unagreed issues.
- (9) The examiner and group manager may contact the Appeals Team Manager for assistance in determining eligibility.

4.25.13.3.2
(07-12-2018)

Initiating the Fast Track Settlement process

- (1) To request a FTS, submit a FTS package to the Appeals Team Manager. The FTS package requirements are at IRM 8.26.2.4.

Note: In addition to the FTS package requirements listed in IRM 8.26.2.4, a Family Limited Partnership ("FLP") valuation issue FTS package must include Form 1273, Form 6180, Form 886A, the taxpayer's appraisal, and the IRS appraisal.

- (2) Forward the FTS Package to the local Appeals Office within three business days of obtaining the signed FTS application.
- (3) Cases using FTS remain in SB/SE jurisdiction. Do not transfer the full case file to Appeals.
- (4) Refer to the procedures in IRM 8.26.2.5, Eligibility.
- (5) Once the case is approved and assigned to Appeals for FTS, the examiner should update the case to status code 15, and apply aging reason code 23. Upon completion of the FTS session, the examiner should return the case to status code 12.

4.25.13.3.3
(07-12-2018)
**Fast Track Settlement
Sessions**

(6) See the *SBSE Fast Track Settlement Job Aids* for additional information.

- (1) The FTS session is led by Appeals. Appeals does not act in a traditional Appeals role, but uses an interest-based approach to facilitate a settlement of the issues between the parties. Using mediation techniques, Appeals attempts to bring the parties to a mutual resolution of the issues during the FTS session.
- (2) Estate and Gift participates in the FTS process along with the taxpayer and Appeals. The FTS Appeals Official may propose settlement terms for any or all issues. The settlement proposal must be mutually agreed upon by both the taxpayer and Estate and Gift. Neither party is obligated to accept the settlement proposal offered by Appeals.

Note: If the SB/SE group manager or their designee rejects the Appeals Official's settlement proposal during the FTS session, the SB/SE Territory Manager will have to concur with the rejection in writing.

- (3) Form 14000, Fast Track Session Report, is an administrative document that assists Appeals in the planning and administration of the fast track settlement session. Form 14000 provides a summary of all disputed issues, amounts in dispute, relevant conference dates, and the final disposition. The Fast Track session report is signed by the parties
- (4) The examiner should bring the case file, workpapers, computer, and printer to the FTS session.
- (5) If no resolution is reached between SB/SE and the taxpayer, the FTS Official may use his/her settlement authority to propose a settlement based on an assessment of the hazards of litigation. If the FTS Official makes a settlement proposal that is accepted by SB/SE and the taxpayer, SB/SE closes the case agreed on the basis of the Appeals settlement. The FTS Official will prepare and execute the appropriate forms and closing agreement, if applicable. The FTS Official must prepare an Appeals Case Memorandum (ACM).

Note: If SB/SE and the taxpayer reach a negotiated settlement, SB/SE secures the appropriate agreement form and closes the case using SB/SE's standard procedures.

- a. For issues settled by Appeals, Appeals will prepare the waiver, and Form 906, Closing Agreement on Final Determination Covering Specific Matters, if applicable.
 - b. Appeals will also prepare an Appeals Case Memorandum (ACM) when issues are resolved using hazards of litigation (factual and/or legal).
 - c. The Appeals Officer will also prepare and provide a signed Form 14000 to all decision makers. The signature of an IRS Official on Form 14000 does not preclude the reopening of the case.
- (6) The Appeals Official forwards the "SB/SE FTS Closing Package" to the Estate and Gift Group using Form 3210. See IRM 8.26.2.15.2 for a complete listing of the documents contained in the FTS SB/SE Closing Package. Estate and Gift secures appropriate closing documents from the taxpayer and closes the case using traditional procedures.

- (7) If the taxpayer and/or SB/SE presents new information related to the issues in dispute, the Appeals Official will consider postponing or terminating the session until both parties have had adequate time to review and evaluate it.
- (8) If the parties are unable to resolve an issue, the taxpayer will retain all of the traditional appeal rights and Estate and Gift will close the case as "Unagreed". When Appeals receives an unagreed case after an FTS session, Appeals assigns it to a different Appeals Officer.
- (9) If a resolution is not reached using FTS and the taxpayer requests appeals consideration, Post Appeals Mediation is not available for any issue considered during the FTS process if the parties fail to resolve the issue or if either party withdraws after the start of the process. See Rev. Proc. 2014-63, 2014-53, I.R.B. 1014 and Rev. Proc. 2017-25, 2017-14 I.R.B. 1039.

4.25.13.3.4
(07-12-2018)

**Withdrawal or
Termination of the
SB/SE Fast Track
Settlement**

- (1) A request for participation in the SB/SE FTS process may be withdrawn or terminated.
- (2) A party wishing to withdraw or terminate should provide written notice to the FTS Appeals Official and the other party as described in IRM 8.26.2.9.3, Withdrawal.

4.25.13.4
(07-12-2018)

**Rapid Appeals Process
(RAP)**

- (1) The Rapid Appeals Process (RAP) is an elective alternative dispute resolution method available to taxpayers who have appealed an estate or gift tax case. RAP takes place while the case is under Appeals' jurisdiction, and is intended to improve the efficiency and timeliness of Appeals resolutions using mediation techniques. IRM 8.26.11, Alternative Dispute Resolution (ADR Program – Rapid Appeals Process, contains the procedures for Appeals employees to follow when working a Rapid Appeals Process (RAP) case.
- (2) There are differences between the RAP and FTS processes:
 - a. Under RAP, the case is in Appeals' jurisdiction, and under FTS, the case is in Exam's jurisdiction.
 - b. Under RAP, if an issue is determined not to be eligible for one of the reasons described in IRM 8.26.11.6, the remaining issues may still be eligible for RAP. Under FTS, if an issue is determined not to be eligible, all other disputed issues in the case are not eligible for FTS.
- (3) RAP presumes the unagreed issue is fully developed and ready for immediate consideration and resolution and that Exam and the taxpayer have already articulated their specific points of disagreement of the issue. An issue cannot be fully developed prior to the receipt of all necessary referrals, technical advice, Counsel advice, valuation reports, or other relevant documentation.

4.25.13.4.1
(07-12-2018)

**RAP - Examination's
Roles and
Responsibilities**

- (1) After assignment of the case, if all parties agree to the RAP process, the ATCL/AO contacts the taxpayer and the Exam Team Manager to start the RAP planning process and sends Letter 5248, Introduction to Rapid Appeals Process. As part of the initial planning process the ATCL/AO will contact both the taxpayer and Exam to explain the process and benefit, outline the plan and establish a mutually agreeable conference date.
- (2) The Exam group manager, in consultation with the assigned ATCL/AO determines the Exam participants. Exam participants may include the group manager, lead attorney, estate tax attorney, paralegals and legal assistants,

and others who have the knowledge and expertise to contribute to issue resolution. Exam participants may also include Technical Specialists (e.g., engineering, business valuation experts, outside fee appraisers, etc.). In those instances where the issues are industry specific or there is a Technical Specialist position established for the issue, the participation of appropriate Technical Specialists is strongly recommended.

- (3) The RAP session is led by Appeals, but all three parties are active participants during the RAP process.
- (4) After an initial joint session, Appeals may conduct the entire RAP session jointly, or meet with the parties separately (subject to the provision of a satisfactory ex-parte waiver).
- (5) RAP is elective. If at any point the ATCL/AO determines that the RAP process is not facilitating the resolution of the unagreed issue, the RAP process is terminated, and the ATCL/AO continues consideration of the issue(s) using the traditional Appeals process. The taxpayer and Exam can also withdraw from the process at any time.
- (6) If settlement is reached in the RAP session:
 - a. Appeals will provide a copy of the Schedule of Adjustments notated with the basis of settlement.
 - b. All parties will sign the Schedule of Adjustments to indicate agreement with the settlement reached during the Rapid Appeals Process.
 - c. The ATCL/AO may follow-up with a brief Memorandum of Understanding for the parties to acknowledge, or
 - d. The ATCL/AO may have the parties provide a letter or e-mail confirming the nature of the settlement.
 - e. If the case is subject to Joint Committee review, all RAP Schedules of Adjustment and Memoranda of Understanding will include the following statement, "This settlement will not be effective until the date the Joint Committee on Taxation completes its review (if needed) without objection".
- (7) Because the case is in Appeals' jurisdiction, normal Appeals closing procedures apply, including those pertaining to Joint Committee Review. For cases assigned to ATCL Operations, see IRM 8.7.11, Working Appeals Team Cases.
- (8) If the case is not resolved using RAP, the taxpayer is entitled to traditional Appeals consideration on all remaining unagreed issues. The ATCL/AO who facilitated RAP will also consider the traditional appeal of the unagreed issues.

