



# MANUAL TRANSMITTAL

Department of the Treasury  
Internal Revenue Service

8.2.2

APRIL 4, 2025

## EFFECTIVE DATE

(04-04-2025)

## PURPOSE

- (1) This document transmits revised IRM 8.2.2, *Pre-90-Day and 90-Day Cases*.

## MATERIAL CHANGES

- (1) Added IRM 8.2.2.1, *Program Scope and Objectives*, and related sections containing internal control information required by IRM 1.11.2.2.5, *Address Management and Internal Controls*.
- (2) In IRM 8.2.2.1.6, 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) Added paragraph (3) to IRM 8.2.2.1.6 to provide reference to IRM 25.30.2, *Service Level Agreement between the IRS Independent Office of Appeals and the Taxpayer Advocate Service*.
- (4) Revised paragraph (5) of IRM 8.2.2.4.1, *Statutory Notice of Deficiency Issued by Appeals - Case Submitted to Counsel for Concurrence*, to incorporate language from Interim Guidance Memorandum AP-08-0922-0014.
- (5) Updated references throughout the IRM.

## EFFECT ON OTHER DOCUMENTS

IRM 8.2.2 dated May 29, 2014, is superseded.

## AUDIENCE

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8.2.2

Statutory Notice of Deficiency Cases

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8.2.2.1  
(04-04-2025)  
**Program Scope and Objectives**

- (1) Purpose: This IRM section provides procedures for Appeals Technical Employees (ATEs) and Appeals Team Managers (ATMs) for cases in which a Statutory Notice of Deficiency (SND) has already been issued, either by Compliance or by Appeals.
- (2) Audience: Appeals Technical Employees (ATEs) and Appeals Team Managers
- (3) Policy Owner: Director, Operations Support
- (4) Program Owner: Director, Policy, Planning, Quality and Analysis
- (5) Contact Information: Appeals employees should follow established procedures on *How to Contact an Analyst*. Other employees should contact the Product Content Owner shown on the Product Catalog Information page for this IRM.

8.2.2.1.1  
(04-04-2025)  
**Background**

- (1) The mission of the Independent Office of Appeals (Appeals) is to resolve tax controversies, without litigation, on a basis which is fair and impartial to both the Government and the taxpayer in a manner that will enhance voluntary compliance and public confidence in the integrity and efficiency of the Service. Appeals accomplishes its mission by considering protested and Tax Court cases and negotiating settlements in a manner which ensures Appeals employees act in accord with the Taxpayer Bill of Rights (TBOR) in every interaction with taxpayers. See IRM 8.1.1.2, *Accomplishing the Appeals Mission*.

8.2.2.1.2  
(04-04-2025)  
**Authority**

- (1) IRC 6212 authorizes mailing a statutory notice of deficiency to the taxpayer's last known address using certified or registered mail.
- (2) Delegation Order No. 8–8 gives Appeals Area Directors authority to accept jurisdiction after Compliance issues a statutory notice of deficiency when the case is not docketed in the United States Tax Court and when the taxpayer does not agree with the determination of the IRS and requests consideration by Appeals. See IRM 1.2.2.9.8 *Delegation Order 8-8 (Rev. 1) (formerly DO-66, Rev. 15), Authority of Appeals in Protested and Tax Court Cases*.
- (3) IRC 6212(d) states that the Secretary may, with the consent of the taxpayer, rescind any statutory notice of deficiency mailed to the taxpayer. Whether or not a statutory notice is rescinded is discretionary on the part of the Secretary. A notice of deficiency may only be rescinded with the consent of the taxpayer.

8.2.2.1.3  
(04-04-2025)  
**Responsibilities**

- (1) The Director, Operations Support is the executive responsible for Appeals' policy and procedural guidance.
- (2) The Director, Policy, Planning, Quality and Analysis (PPQA) is responsible for program oversight.

8.2.2.1.4  
(04-04-2025)  
**Program Reports**

- (1) PPQA provides trends, data analyses, and detailed summary reports for Appeals.

8.2.2.1.5  
(04-04-2025)

#### Terms and Acronyms

- (1) The table lists commonly used acronyms and their definitions:

Term of Acronym	Definition
ACDS	Appeals Centralized Database System is Appeals' computerized case control system, used to control and track cases throughout the appeal process.
ACM	Appeals Case Memo
AIMS	Audit Information Management System is a computer database system used by Appeals and Compliance (for examination-sourced cases) to control returns, input assessment/adjustments to Master File and provide management reports.
APS	Account and Processing Support
ASED	Assessment Statute Expiration Date
ATE	Appeals Technical Employee
ATM	Appeals Team Manager
Compliance	Originating Function
IDRS	Integrated Data Retrieval System
PTM	Processing Team Manager
SND	Statutory Notice of Deficiency
TCS	Tax Computation Specialist
USTC	United States Tax Court

- (2) Also, see IRM Exhibit 8.1.1-1, *Common Terms Used by Appeals*.

8.2.2.1.6  
(04-04-2025)

#### Related Resources

- (1) The following table lists related IRM guidance:

IRM	Title
IRM 8.6.1.3	<i>Transfer Procedures</i>
IRM 8.20.6.9	<i>Compliance-Issued Statutory Notice of Deficiency (SND) - Premature Default/Assessment</i>
IRM 8.20.6.8.13	<i>Rescinded Appeals-Issued Notice of Deficiency Under Rev. Proc. 98-54</i>

- (2) 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 <https://www.irs.gov/taxpayer-bill-of-rights>.
- (3) In accordance with IRM 25.30.2.3, *Statement of Commitment*, Appeals will work collaboratively with the Taxpayer Advocate Service (TAS) to enhance the taxpayer experience. For more information, see IRM 25.30.2, *Service Level Agreement between the IRS Independent Office of Appeals and the Taxpayer Advocate Service*.

8.2.2.2  
(05-29-2014)  
**Introduction to Statutory  
Notice of Deficiency  
(SND) 90/150-Day Cases  
in Appeals**

- (1) When a statutory notice of deficiency (SND) is issued to an address within the United States, the case is considered a 90-day case from the date the notice is issued until a petition is filed with the United States Tax Court or until expiration of the 90-day period. When a SND is mailed to an address outside of the United States or the taxpayer is out of the country, the taxpayer has 150 days to file a petition with the Tax Court. This section covers how to process 90/150-day cases that are both resolved and not resolved during the respective period for filing a petition.
- (2) A statutory notice of deficiency is generally referred to as a 90-day letter. **For brevity and clarity, any reference to 90-day letter will be construed to mean 150-day letter when the respective mailing address or the respective taxpayer is outside of the United States.**
- (3) If there is a deficiency in the case as defined in IRC 6211, IRC 6212 authorizes mailing a statutory notice of deficiency to the taxpayer's last known address using certified or registered mail.

8.2.2.3  
(05-29-2014)  
**Appeals Jurisdiction on  
a Compliance Issued  
Statutory Notice of  
Deficiency (SND)**

- (1) Compliance generally issues a 90-day letter when a taxpayer does not respond to the 30-day letter, which transmits the Revenue Agent's Report (RAR). The taxpayer has 90 days from the date the statutory notice of deficiency is issued to file a petition with the Tax Court for redetermination.  
**Note:** If the 90-day letter is mailed to an address outside the United States or the taxpayer is out of the country during the 90-day period after the statutory notice of deficiency is issued, the taxpayer has 150 days to file a petition with the Tax Court.
- (2) Delegation Order No. 8–8 gives Appeals Area Directors authority to accept jurisdiction after Compliance issues a statutory notice of deficiency when the case is not docketed in the United States Tax Court and when the taxpayer does not agree with the determination of the IRS and requests consideration by Appeals. See IRM 1.2.2.9.8, **Delegation Order 8-8 (Rev. 1) (formerly DO-66, Rev. 15), Authority of Appeals in Protested and Tax Court Cases**.
- (3) The 90-day or 150-day period allowed by law for the taxpayer to petition the United States Tax Court (USTC) on a Compliance-issued SND, is not extended or suspended when Appeals accepts jurisdiction due to the taxpayer filing a protest to Appeals. If Appeals receives a protest and accepts jurisdiction during the Compliance issued SND 90/150-day period during which the taxpayer may file a petition with the USTC, prompt action must be taken to assign the case

to the Appeals Technical Employee (ATE) who must notify the taxpayer that the time for filing a petition to the USTC is not extended as a result of Appeals accepting jurisdiction of the case.

- (4) Appeals may relinquish the requested jurisdiction by waiver on any case where a statutory notice of deficiency was issued by the IRS, as long as the case is not docketed in Tax Court. No waiver is made on a case if it contains either of the following conditions:
  - a. Criminal prosecution recommended but not finally disposed of; or
  - b. Statutory notice of deficiency determination that includes a fraud penalty.
- (5) Appeals does not accept jurisdiction of a 90-day case with a belated protest from an IRS Campus function if the taxpayer did not submit all supporting information, explanations, or documents to the source function.
- (6) If Appeals does not accept the case during the 90-day period, Appeals sends written notification to the taxpayer explaining the reason for the denial making it clear the denial does not extend the 90-day period for filing a petition with Tax Court.

#### 8.2.2.3.1 (05-29-2014)

##### **Appeals Conference and Settlement of Compliance Issued SND's**

- (1) If the Appeals Area Director decides to consider a Compliance Issued SND case during the 90-day suspense period, the ATM immediately assigns the case.
- (2) The ATE immediately considers the case to ensure it is resolved prior to the expiration of the 90-day period using the procedures found in IRM 8.6, *Conference and Settlement Practices*.
- (3) Consideration and processing of a 90-day case is similar to a pre-90 day case. A Form 5402, *Appeals Transmittal and Case Memo*, is required. This form is part of all Appeals Case Memos (ACMs) and may be all that is needed, i.e., for a very simple case, or when the taxpayer concedes in full.
- (4) Generally, a longer narrative ACM is needed for a case when settlement is reached, i.e., if it involves a hazard settlement or contains complex legal or factual issues. See IRM 8.6.2, *Appeals Case Memo Procedures*, for more information.

#### 8.2.2.3.2 (05-29-2014)

##### **Appeals Settlement Computation on Compliance Issued SND Cases**

- (1) A 90-day case must be given priority treatment because of the short time frames involved. Sufficient time should be allowed to insure that all case activities, including closing by APS, will be completed before the expiration of the statute of limitations.
- (2) When a case is settled during the 90-day period, the settlement computations must be handled as a priority. If a request for settlement computations is sent to the Tax Computation Specialist (TCS) function, mark the case and annotate the Form 3608 as a priority so the TCS manager can easily identify that the case is a priority. This will ensure it is correctly logged into the Technical Automated Control System (TACS).
- (3) No audit statement is required if the Commissioner's determination shown in the Compliance Issued SND is agreed in full either during the 90-day period or after filing a petition.



## 8.2.2.3.3

(05-29-2014)

**Appeals Technical  
Employee (ATE)  
Procedures When  
Compliance Issued SND  
Case is Unagreed**

- (1) Generally, a Form 5402, *Appeals Transmittal and Case Memorandum* (ACM) is not required in a 90-day case when a settlement is not reached.
- (2) Prepare an informal memorandum (referred to as a 90-day memorandum) and a signed closing letter.
- (3) The memorandum lists the following:
  - a. the conferences held,
  - b. those present at the conferences,
  - c. the reason for assuming jurisdiction,
  - d. any proposal and/or counterproposal,
  - e. evidence or legal authority, and
  - f. an evaluation of the case.
- (4) The closing letter is mailed to the taxpayer at least 15 days prior to the expiration of the 90-day period.

## 8.2.2.3.4

(05-29-2014)

**Requests for Appeal  
from Taxpayer Outside  
the U.S. During the  
Compliance Issued SND  
Suspense Period**

- (1) If a taxpayer residing outside the United States requests that their case come to Appeals, the request is considered by the Appeals International Area Director.
- (2) If the Appeals International Area Director accepts the taxpayer's request for Appeals consideration during the Compliance Issued 90-day Suspense Period, the case is forwarded by Compliance to the Appeals Office designated by the Appeals International Area Director.
- (3) See IRM 8.6.1.3, *Transfer Procedures*, for additional guidance on transfer of cases.

## 8.2.2.4

(05-29-2014)

**Appeals Issued  
Statutory Notice of  
Deficiency (SND)**

- (1) When Appeals issues the statutory notice of deficiency, the case can be considered or reconsidered during the 90-day period.
- (2) Reconsideration of a case does not extend the 90-day time-frame in which the taxpayer may petition the Tax Court for a redetermination. Appeals employees responding to a taxpayer's request for reconsideration should clearly explain to the taxpayer that the timeframe for petitioning the USTC, cannot be extended or suspended and remind the taxpayer of the last date for filing a petition of the Appeals-issued SND.

**Note:** If the statutory notice of deficiency is mailed to an address outside the United States or if the taxpayer is out of the country during the 90-day period after the statutory notice of deficiency is issued, the taxpayer has 150 days to file a petition with the Tax Court.

- (3) Special procedures apply when issuing a statutory notice of deficiency on a Refund Suit. For additional information, see IRM 8.7.1.8.3, *Refund Suits with Statutory Notice of Deficiency Issued*.

8.2.2.4.1  
(04-04-2025)

**Statutory Notice of  
Deficiency Issued by  
Appeals - Case  
Submitted to Counsel  
for Concurrence**

- (1) Some notices of deficiency, as well as Employee Plans (EP) and Exempt Organizations (EO) final adverse determination letters, will go to Counsel for concurrence before the letter is issued. The administrative file sent to Counsel will contain the following:
  - Approved Form 5402 marked for Counsel concurrence and either a completed but unsigned statutory notice or a draft of paragraphs to be included in the statutory notice.
  - All returns and documents which were in the case file when it was received in the Appeals Office.
  - Copies of all correspondence received or sent while the case was in Appeals.
- (2) Since Appeals Field Offices are not always co-located with their servicing APS Team, but may be co-located with their servicing Counsel Office, it is not mandatory that cases sent to Counsel for Concurrence be routed through APS; however **it is mandatory** that ACDS accurately reflect the location of the administrative file.
- (3) The Appeals employee who forwards the case to Counsel for SND Concurrence must update ACDS with action code **SNDC** and the current date (date case sent to Counsel) to document the location of the administrative file.

**Reminder:** When the SND is sent to Counsel, and the case will not be routed through the designated APS Office, the ATE must submit an ACDS Update Request to their servicing APS Office, requesting the ACDS record be updated with: Action Code = SNDC and a TODATE = to the date on which the file was transmitted to Counsel.

- (4) Upon return of the case from Counsel, ACDS must be updated with the date received in the FROMDATE Field. If the case is returned from Counsel directly to the ATE, the ATE must ensure the FROMDATE is entered on ACDS to reflect the return of the case to Appeals. If Counsel returns the case to Appeals through APS, the APS TE will update the FROMDATE on ACDS and forward the case to the ATE for further consideration and action.
- (5) On a monthly basis, APS management, or its designated employees, will run the SNDC follow-up list to determine if Counsel has returned the administrative file.
- (6) See IRM 8.20.6.9, **Compliance-Issued Statutory Notice of Deficiency (SND) - Premature Default/Assessment**, for APS SND procedures.

8.2.2.4.2  
(05-29-2014)

**Undeliverable or  
Unclaimed Appeals  
Issued Statutory Notice  
of Deficiency**

- (1) Occasionally, the mail service is unable to deliver a statutory notice of deficiency (SND), either because the taxpayer cannot be located or because the taxpayer will not accept delivery. In these circumstances, the Post Office returns the SND to the Appeals Office Return Address provided on the envelope.
- (2) Whomever is responsible for receiving and distributing the Appeals office mail:
  - a. Date stamp but do not open the envelope.
  - b. Send an encrypted email to the ATE with a Cc to the ATM notifying them that the SND has been returned Undeliverable/Unclaimed. Include the taxpayer's name in the body of the email.

- c. Ensure the ATE receives the Undeliverable/Unclaimed SND (UND/UNC SND) for their decision and timely action.
- (3) The ATE must give priority consideration to the review of the UND/UNC SND, determine whether it was mailed to the last known address for the taxpayer and identify the next action.

**Note:** The ATE and ATM are the Appeals authority with responsibility for verifying that the taxpayer's last known address is identified on the SND and on the "right-sized" mailing envelope submitted to APS. APS is responsible for ensuring the last known address is reflected on the official outgoing mailing envelope if APS prepares the outgoing envelope.

- (4) If the ATE needs the administrative file to complete their review and decision, submit a written request for APS to pull the case from SND Suspense, forward the administrative file to them and update ACDS accordingly.
- (5) The If and Then Table below identifies decision points for the ATE to determine the next action.

IF.....	THEN .....
The SND was issued to the correct and last known address.	Do not reissue the SND. Forward the UND/UNC SND to APS with written instruction to associate the UND/UNC SND with the suspended Administrative File.
The SND was issued to the last known address but a new address has been identified since issuance date.	Do not reissue the SND; instead, instruct APS in writing to send a courtesy copy to the new address. Forward the UND/UNC SND to APS with a "right-sized" envelope prepared with the new address.  <b>Note:</b> Sending a courtesy copy does not impact the original SND Issuance Date.
The SND was not issued to the last known address and the ASED is open.	Reissue the SND. Generate a new SND and "right-sized" envelope prepared with the new last known address. Secure ATM approval and submit the new SND package to APS.
The SND was not issued to the last known address and the ASED has expired	Immediately notify the ATM. The ATM will contact the PTM the same day to alert them of the potential barred statute and request the administrative file be pulled from suspense and returned to the ATE. See IRM 8.21.7.5.1 <i>Discovering a Potentially Barred Statute</i> . Coordination between the ATM and PTM is required to ensure timely and accurate reporting of the potentially barred statute and accurate determination of the causation.

- (6) For additional information see IRM 4.8.9.23, *Undeliverable Notice of Deficiency*.

8.2.2.4.3  
(05-29-2014)

**Reconsideration of Appeals Issued Statutory Notice of Deficiency During Suspense Period**

- (1) If the ATM or Appeals Area Director decides to grant further consideration of a case during the suspense period, the ATE will:
  - a. Request the administrative file be pulled from SND suspense and returned to the Appeals Technical Employee (ATE)
  - b. APS will place a "Charge-Out" in the SND Suspense file in place of the administrative file. The "Charge-Out" will include the name of the case, the ATE who requested the file be pulled, and the date the case was pulled and transmitted to the ATE.
  - c. APS will also enter an alert in the Notes section of ACDS record that the case has been returned to the ATE for reconsideration.
- (2) If no agreement is reached after consideration or reconsideration in the suspense period the ATE will:
  - a. Prepare an informal memorandum and a signed closing letter for the unagreed case.
  - b. Secure the ATM signature and date the memorandum.
  - c. Mail the closing letter.
  - d. Associate the original memorandum and copy of the closing letter with the administrative file.
  - e. Return the administrative file to APS, using Form 3210 transmittal.
  - f. Upon receipt of the administrative file, APS will acknowledge the Form 3210, update ACDS Notes to reflect the administrative file has been returned by the ATE and re-suspense the case in place of the "Charge-Out."

8.2.2.4.4  
(05-29-2014)

**Tax Court Petition Filed During the "Appeals Issued" Statutory Notice of Deficiency Suspense Period**

- (1) See IRM 8.20.6, **Interim Actions**, for APS procedures.
- (2) APS will update ACDS and forward the administrative file to Counsel for Settlement or Trial Preparation.
- (3) If Counsel answers the petition and returns the administrative file to Appeals for a second attempt at settlement, APS will update ACDS with Closing Code 42 to put the case/record back in Part 2 of the ATE's inventory.

8.2.2.5  
(05-29-2014)

**Statutory Notice of Deficiency Rescinded Under Rev. Proc. 98-54**

- (1) There may be instances when it is in the best interest of the IRS and the taxpayer to rescind a statutory notice of deficiency.
- (2) Rev. Proc. 98-54, 1998-2 C.B. 531 provides taxpayers with instructions for entering into an agreement under IRC 6212(d) to rescind a statutory notice of deficiency.
- (3) Whether a statutory notice of deficiency will be rescinded is discretionary on the part of the Secretary. A statutory notice of deficiency is only rescinded with the agreement of the taxpayer, however, it may be initiated by either the taxpayer or the IRS.
- (4) Notices in 90-day cases are only rescinded if Appeals has first decided the case is amenable to agreement.
- (5) Delegation Order No. 4-8 (See IRM 1.2.2.5.8, Delegation Order 4-8 (Rev. 2), **Authority to Issue Notices of Deficiency or Execute Agreements to Rescind Notices of Deficiency** authorizes Appeals Area Directors to rescind any statutory notice of deficiency. ATMs can rescind statutory notices of deficiency issued on their respective employees' cases.

- (6) In the event Appeals rescinds a statutory notice per Form 8626, *Agreement to Rescind Notice of Deficiency*, APS will update ACDS as follows:
  - a. Remove 090A or 150A from **SNTYPE** field.
  - b. Remove date from **SNDATE** field.
  - c. In **NOTE** field enter "SND rescinded (date signed by Commissioner)."
  - d. Change **Y** to **N** in **SND** field.
- (7) If Form 872 or Form 872-A was also completed in conjunction with Form 8626, update the **STATDATE** or statute **CODE** as appropriate on ACDS.
- (8) See IRM 8.20.6.8.13, **Rescinded Appeals-Issued Notice of Deficiency Under Rev. Proc. 98-54**, for APS procedures.

8.2.2.5.1  
(05-29-2014)  
**Criteria for Rescinding a  
Statutory Notice of  
Deficiency**

- (1) IRC 6212(d) states that the Secretary may, with the consent of the taxpayer, rescind any statutory notice of deficiency mailed to the taxpayer. Whether or not a statutory notice is rescinded is discretionary on the part of the Secretary. A notice of deficiency may only be rescinded with the consent of the taxpayer.
- (2) This provision allows the IRS, through a rescission agreement, to treat a case as if a statutory notice of deficiency was never issued for purposes of -
  - a. IRC 6212(c)(1) - relating to further deficiency letters restricted;
  - b. IRC 6213(a) - relating to restrictions applicable to deficiencies and petitions to Tax Court; and
  - c. IRC 6512(a) - relating to limitations in case of petitions to Tax Court.
- (3) Limitations regarding credits, refunds, and assessments relating to the rescinded notice are void and the rights and obligations of the parties that existed prior to the issuance of the statutory notice of deficiency are reinstated. A statutory notice of deficiency may later be reissued for the same, or a greater or lesser, amount.
- (4) A taxpayer may exercise all administrative and statutory appeal rights from a reissued statutory notice of deficiency. However, the taxpayer has no right to file a petition with the Tax Court based on a rescinded notice.
- (5) The determination to rescind a statutory notice of deficiency should be made on a case-by-case basis. Both parties must agree to the rescission.
- (6) A rescission will not be entered into if:
  - a. It has been 90 days (150 days for notices mailed to addresses outside the United States) since the notice was issued.
  - b. The taxpayer has petitioned the Tax Court.
- (7) If the statutory notice of deficiency was issued to both husband and wife, the rescission agreement must be signed by both parties or authorized representative(s) for both parties.
- (8) The rescission agreement must cover all of the same tax periods shown in the statutory notice of deficiency.
- (9) The rescission agreement must reflect the same tax deficiency and penalties as the statutory notice of deficiency.

- (10) If the IRS does not agree that a statutory notice of deficiency should be rescinded, the taxpayer will be notified in writing and the notice will remain in effect.
- (11) All questions regarding the propriety of a rescission agreement on any case should be discussed with Counsel.

8.2.2.5.2  
(03-09-2012)

**Basis for Rescission**

- (1) There are basically three reasons that a notice is rescinded. They are as follows:
  - a. administrative error;
  - b. incorrect or insufficient amount;
  - c. an appeals conference is requested in a 90-day case and no petition was mailed or filed with Tax Court.
- (2) When an administrative error has occurred, the notice may be rescinded. The following are examples of administrative errors:
  - a. notice was issued to the wrong taxpayer;
  - b. notice was issued for the wrong tax period;
  - c. notice was prematurely issued due to failure of the IRS to consider a properly filed Form 872, *Consent to Extend the Time to Assess Tax*.
- (3) If a statutory notice of deficiency has been issued for an incorrect or insufficient amount, the notice may be rescinded. However, the taxpayer must be advised that another notice, for a greater amount, may be subsequently issued.
- (4) If a taxpayer specifically requests a conference with Appeals for the purpose of entering into settlement negotiations, the notice may be rescinded. However, the notice will be rescinded only if Appeals is confident the case will result in an agreement. Appeals may request that the taxpayer submit, in writing, a protest or similar document that explains their position on the unagreed issues. See IRM 8.4.1, *Processing Docketed Cases*, for further 90-day case procedures.

8.2.2.5.3  
(05-29-2014)

**Period of Limitation for Assessment Considerations**

- (1) If the normal three year period of limitations for assessment has expired do not enter into an agreement to rescind the notice.
- (2) If, on the date of rescission, 90 days or less remain before the expiration of the period of limitation on assessment, the notice may be rescinded but only if the taxpayer and the IRS execute a Form 872 to extend the limitation period. When determining how many days remain on the statute, do not consider the additional time created by the issuance of the notice of deficiency.
- (3) Generally, a statutory notice of deficiency will not be rescinded if there is an outstanding Form 872-A, *Special Consent to Extend the Time to Assess Tax*; however, see Rev. Proc. 98-54, 1998-2 C.B. 531 clarifying the IRS's position in situations where notice revocations may be considered.

8.2.2.5.4  
(05-29-2014)

**Form 8626, Agreement to Rescind Notice of Deficiency**

- (1) Form 8626, *Agreement to Rescind Notice of Deficiency*, will be used to secure an agreement between the taxpayer and the Government. When preparing Form 8626, care must be exercised to ensure the accuracy of the information contained within the document and its timely execution by both the taxpayer and the Government.



- (2) The rescission agreement form will be prepared in duplicate. Once executed, one copy of Form 8626 will be secured to the return for the latest year covered by the agreement. The second copy will be sent to the taxpayer by mail or given to the taxpayer in person. Copies of the executed rescission agreement will be attached to all other returns covered by that agreement.
- (3) One Form 8626 may be used as a rescission agreement for all years contained in the rescinded notice of deficiency. All years covered by the agreement will be entered below the first paragraph under "Tax Year Ended." The deficiencies and additions to tax, as shown on the notice of deficiency, will be entered below the appropriate column headings.
- (4) The effective date for a rescission agreement is the date on which the Commissioner or delegate signs the rescission form.
- (5) A taxpayer who believes that a statutory notice of deficiency should be rescinded because they wish to enter into settlement negotiations should contact Appeals and request Form 8626.

8.2.2.5.5  
(05-29-2014)  
**Authority to Rescind  
and Sign Notices of  
Rescission**

- (1) Authority to rescind statutory notices of deficiency is granted to the Secretary by IRC 6212(d). Delegation Order No. 4-8 (as revised) delegates this authority to Appeals Area Directors, Appeals Team Managers, and Appeals Team Case Leaders on their respective cases.
- (2) The authority to rescind does not apply to a Notice of Final Partnership Administrative Adjustment (FPAA).
- (3) Delegates listed in Delegation Order No. 4-8 (as revised) will manually sign their own name.

8.2.2.6  
(05-29-2014)  
**Statutory Notice of  
Deficiency Disposition  
and Closing**

- (1) After a notice is issued on a case, disposition usually occurs in one of the following ways:

IF.....	THEN .....
taxpayer agrees to the deficiency within the 90-day (150-day) period by signing the appropriate agreement form	the case is pulled from SND suspense and assigned to an APS TE for processing of the agreed SND assessment(s).
taxpayer fails to file the petition with the United States Tax Court within the prescribed period.	the case is pulled from SND suspense, defaulted, and assigned to an APS TE for processing of the defaulted SND assessment(s).
taxpayer enters into agreement under IRC 6212(d) to rescind the Notice of Deficiency	follow procedures in IRM 8.2.2.4.4.
taxpayer files a timely petition and the case becomes docketed in the Tax Court	the administrative file is pulled from SND suspense and transmitted to Counsel for preparation of pleadings and trial preparation. APS updates ACDS accordingly.

8.2.2.6.1 (1)

(05-29-2014)

**APS Procedures for  
Statutory Notice of  
Deficiency (SND) Interim  
and Closing Actions**

<b>APS Procedure</b>	<b>APS IRM</b>
Non-Petitioned Year(s) in Multi-Year SND	IRM 8.20.6
Non-Petitioning Spouse on an Appeals Issued SND	IRM 8.20.6
APS Procedures to Close an Agreed SND	IRM 8.20.7
APS Procedures to Close a Defaulted SND	IRM 8.20.7
APS Procedures for Disposition of an Agreed or Defaulted SND Involving a Claim	IRM 8.20.7