



MANUAL TRANSMITTAL

Department of the Treasury
Internal Revenue Service

8.6.2

JULY 26, 2022

EFFECTIVE DATE

(07-26-2022)

PURPOSE

- (1) This transmits revised IRM 8.6.2, Conference and Settlement Practices, Appeals Case Memo (ACM) Procedures.

MATERIAL CHANGES

- (1) Incorporated guidance from Interim Guidance AP-08-0720-0012, Uploading all Final Appeals Case Memorandums on ACDS is Mandatory for all Cases, dated July 20, 2020. This IG makes it mandatory for all Appeals Technical Employees (ATEs), who prepare ACMs, to upload all final ACMs and Forms 5402, Appeals Transmittal and Case Memo, into the Appeals Centralized Database System (ACDS).
- (2) Made editorial changes throughout to update links and correct spelling, punctuation and spacing.
- (3) Made editorial changes to IRM 8.6.2.2.3, paragraphs (4) and (5) to redirect links to current resources.

EFFECT ON OTHER DOCUMENTS

This IRM supersedes IRM 8.6.2, Appeals Case Memo (ACM) Procedures, dated 08-17-2017, and incorporates Interim Guidance Memorandum AP-08-0720-0012, Uploading all Final Appeals Case Memorandums on ACDS is Mandatory for all Cases, dated July 20, 2020.

AUDIENCE

Appeals

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8.6.2

Appeals Case Memo Procedures

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8.6.2.1
(08-17-2017)
Program Scope and Objectives

- (1) *Purpose:* This IRM section provides detailed instructions for Appeals Technical Employees (ATEs), on how to prepare an Appeals Case Memo (ACM).
- (2) *Audience:* Appeals.
- (3) *Policy Owner:* Chief, Appeals.
- (4) *Program Owner:* Director, Case and Operations Support.
- (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.

8.6.2.1.1
(08-17-2017)
Background

- (1) Appeals is the only administrative function of the Service with authority to consider settlements of tax controversies and has the primary responsibility to resolve these disputes without litigation to the maximum extent possible. Appeals' mission 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 this mission by considering protested and Tax Court cases, holding conferences, 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, IRC 7803(a)(3). See also Pub 5170, Taxpayer Bill of Rights.

8.6.2.1.2
(08-17-2017)
Authority

- (1) Public Law 111-274, also known as the *Plain Writing Act of 2010*, establishes that Government documents issued to the public must be written clearly and for other purposes. The term "plain writing" means writing that is clear, concise, well-organized, and follows other best practices appropriate to the subject or field and intended audience.

8.6.2.1.3
(08-17-2017)
Responsibilities

- (1) The Director of Case Operations and Support is responsible for providing technical and procedural guidance to the field, training, establishing and maintaining policies and standard procedures for Appeals work streams, conducting operational reviews, providing information on case work flow, identifying and resolving issues that impact Appeals stakeholders, coordinating advisory boards, providing coordinated and complete Appeals responses to GAO and TIGTA reports, overseeing the Appeals Internal Management Document program, developing and implementing alternative dispute resolution programs, and providing oversight and program direction for the Appeals Quality Measurement System (AQMS) and case support functions.
- (2) This IRM section focuses on providing procedures for preparing Appeals Case Memorandums that are clear, concise, well-organized, and adequately explain the basis for the decision made.

8.6.2.1.4
(08-17-2017)
Program Reports

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

8.6.2.1.5
(08-17-2017)

Terms and Acronyms

- (1) See IRM 8.1.1-1 Exhibit, Common Terms Used in Appeals, for common terms and definitions used in IRM Part 8.
- (2) The table lists commonly used acronyms and their definitions:

Acronym	Definition
ACM	Appeals Case Memorandum
LB&I	Large Business and International
IMS	Issue Management System
WUNO	Work Unit Number

8.6.2.1.6
(08-17-2017)

Related Resources

- (1) This IRM is the primary source of guidance for writing ACMs.
- (2) *Plain Writing Act of 2010.*
- (3) *The IRM Style Guide*
- (4) *Grammar Corner*

8.6.2.2
(08-17-2017)

Introduction to Appeals Case Memos (ACMs)

- (1) This section explains how Appeals Technical Employees (ATEs), (as defined in IRM 8.1.1-1) prepare an Appeals Case Memo (ACM). Also, see the following for other guidance on preparing ACMs and/or ACM attachments:
 - IRM 8.7.11, Working Appeals Team Cases
 - IRM 8.22.9, Collection Due Process, Closing and Post Closing Actions
- (2) The ACM is a report the ATE prepares to adequately explain and support the basis on which a work unit is disposed. Every Appeals work unit requires an ACM. The exception to this general rule is where disposition of the case can be explained in a brief comment. See IRM 8.6.2.3.2.
- (3) Prepare the ACM with the focus on the primary reader. See IRM 8.6.2.2.4.
- (4) Include the following in the ACM:
 - a. Information that explains and supports the ATE's basis for settlement.
 - b. Any follow up action for Compliance personnel. See IRM 8.6.2.8.
 - c. Information for Counsel to prepare for trial and to evaluate the settlement proposal. See IRM 8.6.2.9.
 - d. Discussion (as deemed appropriate) about material received during Appeals' consideration. See IRM 8.2.1.7.2.
- (5) Prepare the ACM, using "plain language." See IRM 8.6.2.2.3.
- (6) Separately frame each new issue raised by the taxpayer, and don't offset the issue against a Compliance raised issue - unless there's an obvious and compelling reason to do so. (e.g. Appeals allows depreciation on the acquisition of an asset which is expensed by the taxpayer and fully disallowed by IRS Compliance.)
- (7) Prepare consolidated ACMs covering the key case and all related cases to avoid unnecessary duplication of information.

- (8) Address the taxpayer’s position, the government’s position, and Appeals’ analysis and final determination. The final Appeals determination and resolution should reflect the conclusion reached by the employee with ultimate responsibility for the case, including “*review and concurrence*” requirement and management approval.

8.6.2.2.1
(03-16-2015)
Four Major Sections of an Appeals Case Memo (ACM)

- (1) *Summary and Recommendation:* The Summary and Recommendation is the first section of your narrative and is required in all ACMs. It briefly summarizes the issue and the recommendation. This section should contain enough information to cover all the most important matters, yet still be concise enough that the reader doesn’t feel bogged down in details.

Note: If the issue is simple, this section may be all that’s needed. Include a summary and brief analysis of what the taxpayer and examiner did or said. Briefly state the rationale for the recommendation. Include the litigating hazards facing the government and how they affect the settlement.

- (2) *Brief Background:* This is an optional section, used to describe anything general to the entire issue. Think of this section as a way to give the reader *just the basic facts*. Save other facts for later, and put them where the reader needs them. This section doesn’t include controversial statements. It simply says enough to give context for what follows.

Example: *John Sample and Jay Bird* incorporated under the name “*SB Corporation*”. Each shareholder owned 50% of the corporation. “*SB Corporation*” is in the business of veterinary medicine. The examiner is completing *Jay Bird’s* case separately; therefore, it isn’t associated with the corporation’s case.

- (3) *Discussion and Analysis:* This is the main section for a detailed discussion of the issue. Along with the “Schedule of Adjustments” and the initial framing of the issue, this section also serves as a rough draft ACM. Make this section clear and concise by providing a blueprint or outline of the discussion to follow. In a complex issue discussion, good structure is essential.
- (4) *My Evaluation:* This section serves as a recap of the relevant factors and the weight assigned to each. This analysis clearly illustrates the settlement rationale and is particularly important on complex issues and those with hazards of litigation settlements.

8.6.2.2.2
(03-16-2015)
Types of Appeals Case Memos (ACMs)

- (1) The ACM is the ATE’s summary of the issue(s) and recommended resolution. It should persuade the Appeals Team Manager (ATM) that the ATE appropriately considered and analyzed all important facts, arguments, and law. However, the ACM is a flexible document. Depending on whether the issues are agreed or unagreed, simple or complex, your ACM can take a number of formats.
- (2) The following are four ways to communicate the results of a case:

Document	Description
Form 5402, Appeals Transmittal and Case Memo	This form is part of all ACMs, and sometimes is all that's needed. Write the case explanation in the "Remarks and/or ACM" section for very simple cases, or when the taxpayer concedes in full. See IRM 8.6.2.3.2.
Schedule of Adjustments	This schedule is part of all ACMs, when just using a Form 5402 isn't enough. Think of it as a summary. Use brief phrases to list the issues, and use columns to show the following: <ul style="list-style-type: none"> a. the "Examiner's Adjustment", b. "Appeals Change to Adjustment", c. "Appeals Adjustment" When a narrative isn't needed, the "Schedule of Adjustments" (combined with Form 5402) is the entire ACM. See IRM 8.6.2.4.
Schedule of Adjustments with a Brief Narrative	Sometimes a simple explanation is needed, along with the "Schedule of Adjustments". See IRM 8.6.2.5.
Schedule of Adjustments with a Longer Narrative	A longer narrative might be necessary if the case is unagreed, involves a hazards settlement, or contains complex legal or factual issues. The longer narrative has quite a bit of flexibility. It could include four major sections; but only the first one (<i>Summary and Recommendation</i>) is required. The longer narrative tells the full story of an issue. See IRM 8.6.2.6.

- (3) For Collection-sourced work units, consider using the following documents to limit your written analysis:

Form	Description
Form 14559	Appeals Offer in Compromise Memorandum
Form 14561	Income and Expense/Asset Equity Calculation Table

- a. Use Form 14559 and Form 14561 together to reduce the overall written narrative for an offer acceptance or rejection. Use the "Comments" section to briefly explain changes or disagreements.
- b. Use Form 14561 to limit the written analysis when financial analysis is needed for any Collection case in Appeals.

8.6.2.2.3
(03-16-2015)
Introduction to "Plain Language" Writing

- (1) "Plain language" writing has widespread acceptance, and it should be used in all Appeals writings. If a document is prepared for use by the public, the *Plain Writing Act of 2010* requires federal agencies to prepare written communication that's clear, concise, and well-organized. This "Act" also requires employees to follow other "best practices" appropriate to the subject, field, and intended audience. See *Public Law 111-274*.

- (2) This writing style encourages individuals to write the way they talk. Ask the question, “How would I say the words if my reader was standing in front of me?” Then use those words when writing. “Plain language” is described as follows:
 - a. **A spoken style** - using ordinary words, personal pronouns, active voice, contractions, a variety of punctuation, and relatively short sentences.
 - b. **A clear organization** - starting with the main point.
 - c. **An obvious layout** - using short paragraphs, headings, and bullet lists.
- (3) See the following examples of conversational style writing:

Use	For Example...
Ordinary words	Use “did” instead of “accomplished” and “set up” instead of “implemented”.
Personal pronouns	Use “I” to refer to “yourself” and “we” to refer to “Appeals”. Use personal pronouns with the same frequency used when talking.
Active voice	Say “I found” instead of “it was found”. An easy way to write in active voice is to use personal pronouns.
Contractions	Say “The taxpayer didn’t” or “I’m certain” instead of “The taxpayer did not” and “I am certain”. The difference in these examples is small, but the value of contractions is great.
A variety of punctuation	Use the dash, colon, quotations and/or question mark. As a result, you can show the reader “what’s important” and “what isn’t”.
Relatively short sentences	Some writers tend to write sentences that are about the same length - two or three lines. Look carefully at sentences longer than two lines. They may be fine, especially using dashes or colons.

- (4) See *Federal Plain Language Guidelines* at www.plainlanguage.gov and Document 12835, The IRM Style Guide for additional information
- (5) Visit the *IRS Style Guide* and *The Style Files* for assistance with grammar and punctuation.

8.6.2.2.4
(08-17-2017)
Writing Style in Appeals Case Memos (ACM) and ACM Attachments

- (1) Use plain language to prepare “ACMs” and “ACM Attachments” to Determination Letters and Decision Letters. Write the narrative in a clear, concise, and professional manner. Use conversational style writing. See IRM 8.6.2.2.3 (3).
- (2) Consider the intended audience when preparing the ACM or ACM attachment. Tailor the discussion to the primary reader’s needs.
 - a. For an ACM, the primary reader is the Appeals Team Manager (ATM).
 - b. For an ACM attachment to a Determination letter or Decision letter, the taxpayer and ATM are the primary readers.

- (3) There could be important secondary readers, but the ACM's focus must remain with the primary reader(s). See below for examples of secondary readers.

Secondary Reader	Reason for Review of ACM
Area Counsel	Counsel reviews the ACM for docketed cases forwarded for trial preparation, cases requiring approval to include the civil fraud penalty in a notice of deficiency, and for Appeals' concession of the civil fraud penalty in certain situations. Consider providing additional information that would be helpful to Counsel. See IRM 8.6.2.9.
Originating Office	Appeals forwards copies of ACMs and ACM attachments to the originating office as part of Appeals' feedback program to share results of Appeals' considerations.
Appeals Quality Measurement System (AQMS)	AQMS employees review ACMs and ACM attachments for selected cases to determine if the report adequately supports the case conclusion. See IRM 8.1.7, AQMS Purpose and Guidelines.

8.6.2.2.5
(10-18-2007)
Organizing the ACM

- (1) Consciously strive to keep the "main point" in front of the reader. It's best to have the main message up front and to provide breaks in the text that point out each new main message.
- (2) Keep the message impossible to overlook. The prescribed format for ACMs helps emphasize the main points.

8.6.2.2.6
(08-17-2017)
Layout of the ACM

- (1) A "good layout" shows the reader "good organization." Consider labeling headings or topics and use white space between. The importance of both white space and simplicity shouldn't be underrated. When used correctly, they make the written report easier for the reader to understand while helping the text flow.
- (2) Draw the readers' attention to information they need to know, and consider using the following techniques:
 - Use informative headings
 - Use bulleted, alphabetical, or numerical lists
 - Use short paragraphs
 - Vary the alignment of the text - Left, right, and center aligning could result in different effects on a page

Note: The ATE might decide to include headings under a lengthy ACM section, such as the *Discussion and Analysis* section. See IRM 8.6.2.6.3.

- (3) Graphic designers use the "dollar bill rule." The rule says that if a block of text is larger than the size of a dollar bill, it might be too big. At that size, it appears intimidating to the reader and could take a lot of time to read and digest the information.

8.6.2.3
(08-17-2017)
Customized Form 5402

- (1) ACDS is a computerized system used to control and track cases throughout the appeal process. It consists of several subsystems, including “APGolf” (*Appeals Generator of Letters and Forms*). APGolf is a compilation of computer-generated letters and forms, including a variety of customized Forms 5402, used primarily by Appeals Technical Employees (ATEs).
- (2) Employees can use other ACDS subsystems, such as “CASES” or the *Case Activity Record & Automated Timekeeping System (CARATS)*, to add or change source information used by APGolf. See IRM 8.20.3, Appeals Centralized Database System (ACDS) for guidance on “CASES” data entries for validating the accuracy of these fields.
- (3) The “Customized Form 5402” was designed to...
 - a. Address Appeals’ needs for data accuracy;
 - b. Provide more comprehensive case closing instructions for the Account and Processing Support (APS) employee; and
 - c. Capture case resolution reasons and other feedback information to provide to the operating divisions.
- (4) There are several variations of the customized Form 5402 for differing types and categories of cases considered in Appeals. The form is a tool that eliminates much of the guesswork previously involved in preparing the form. Each variation is programmed with up-to-date information presented in easy to follow drop-down menus and lists with boxes to check.
- (5) The ATE must complete the customized Form 5402 on APGolf, so a non-customized Form 5402 isn’t acceptable. See IRM 8.6.2.3.1, Accessing the Customized Form 5402.
- (6) For most cases, the ATE prepares the customized Form 5402. However, an APS employee might complete a customized Form 5402 for a dismissed case. For more information, see IRM 8.20.7.24.2, Dismissed for Lack of Jurisdiction Case Closing, Other Than a Premature Petition or CDP NOD.
- (7) Appeals employees must do the following:
 - a. Prepare and submit a customized Form 5402 with every completed case (agreed or unagreed);
 - b. Prepare and submit a customized Form 5402 to return a *premature referral* where Appeals releases jurisdiction of the case.

Note: The ATE must select a “Premature Referral Reason” on the Customized Form 5402. The employee could use Form 10467, Appeals Division Feedback Report and Transmittal Memorandum in addition to the Customized Form 5402. However, Form 10467 doesn’t replace Form 5402.
 - c. Ensure that the information on Form 5402 is complete for each case. This includes the completion of *required fields*, where the APGolf program forces the Appeals employee to make an entry.

8.6.2.3.1
(08-17-2017)
Accessing the Customized Form 5402

- (1) Access Form 5402 on ACDS in APGolf under the name “5402 – Customized”. The non-customized version isn’t acceptable because it doesn’t record and save information for sharing with the operating divisions. Also, it isn’t pre-programmed with the most up-to-date processing instructions for the APS employees.

- (2) The “Utilities” menu on ACDS contains instructions for completing each variation of the Form 5402. For a list of Customized Form 5402 instructions, visit *Appeals’ ACDS web page*.
- (3) When selecting “**5402 – Customized**”, the APGolf forms generator recognizes the category, type, source, and feature codes - and opens a form specifically tailored for the selected case.
- (4) The form automatically loads with the taxpayer’s name, address, TIN, tax periods, feature codes, project code, category code, type code, and other relevant information contained in the ACDS case record.
- (5) After opening the form, conduct a data accuracy check of all information automatically loaded into the form. “Type codes” and “feature codes” are important. Follow established procedures for correcting errors in the data. Data accuracy is an important component of the customized Form 5402. Make all authorized updates through CARATS or the Validation Tracking System; otherwise, request that APS make the update or correction. See IRM 8.10.3 , Appeals Inventory Validation Process. All data errors must be corrected before preparing and submitting the final Form 5402.

Note: Data errors or missing data may cause an incorrect variation of the Form 5402 to open.

- (6) The ATE can change certain pre-populated fields (i.e. taxpayer name and address) on the Form 5402 input screen for one-time use in generating Form 5402, but changes to pre-populated data from a source field on ACDS, such as CASES or CARATS, can’t be saved from the input screen. You must update source field data from the source field, such as directly from CARATS or the Validation Tracking System, or through an APS update request. For convenience, the data field pre-populated from a source field in ACDS is “colored yellow” on the Form 5402 input screen. “White data fields” on the Form 5402 input screen are populated by the user input. The information in “white fields” is saved and used to pre-populate subsequent Forms 5402.
- (7) APGolf generates Form 5402 in PDF file format, allowing the ATE to open and save the file in PDF format. APGolf programming prevents users from opening and editing Form 5402 in MS Word. It isn’t acceptable to edit a saved copy of the customized Form 5402 in Word. If you need to make changes or updates, you must edit subsequent forms from the input page. As a result, the most current data is stored for feedback loop reports to the operating divisions and the next time the form is accessed, it pre-populates with “source information” in “yellow fields” and the “last saved entries” in “white fields”.
- (8) See the following for details about the *Customized Form 5402*:

Feature	Description
“Save Form” Button	This saves the data entered on the input page so the next time the form is accessed, it pre-populates the source information in yellow fields and the last saved entries in white fields. See the “Data Capture” feature below for additional information.

Feature	Description
<p>ATE “Sign” Checkbox</p>	<p>The ATE “Sign” checkbox is located on the Form 5402 input page next to “Sign/Date”. If the ATE “Sign” checkbox is checked, when the user clicks the “Save/Form” button :</p> <ol style="list-style-type: none"> 1. The ATE’s signature block on the generated Form 5402 will show <i>/s/</i> before the ATE’s typed name; and 2. The generated Form 5402 PDF will automatically save to the case as a case file attachment. <p>Note: When an ATE uploads an electronic signed Form 5402 and/or final ACM to ACDS, the ATE is no longer required to include paper copies of these documents in the case file. See IRM 8.24.1 for information on the Paperless CAP Process.</p> <p>Caution: If a user re-enters the Form 5402 input page, the user must again check the box to “sign” and “save” the latest form as a case file attachment. Delete any unused Form 5402 case file attachments.</p>
<p>Data Capture</p>	<p>The customized Form 5402 captures data entered and saved on the Form 5402 input page. The next time the ATE accesses the Form 5402, the data is pre-populated with information the user previously entered on this page - unless the data is populated from a source field on ACDS such as “CASES” or “CARATS”. See IRM 8.6.2.3 (2).</p>
<p>Mandatory Fields</p>	<p>Programming validity checks require entries in certain mandatory fields on the customized Form 5402 input page - depending upon the work unit type, and Form 5402 won’t generate until all mandatory fields are entered. Multiple mandatory fields may be required - depending upon the type of customized Form 5402. Pop-up alerts and the Form 5402 instructions provide information on which fields are mandatory for each customized Form 5402.</p>

- (9) ATEs can automatically “save” *Form 5402 PDF case file attachments* to ACDS by checking the ATE “Sign” checkbox, or they can manually upload files from “CARATS” or other case file attachments’ entry points. Employees who have the appropriate ACDS permission can view ACDS case file attachments from the “Search” function. See additional information below about the “file name” for automatically saving Form 5402 PDF case file attachments.

Feature	Description
File Name	<p>The Form PDF case file attachment is saved with a file name format that identifies the following:</p> <ol style="list-style-type: none"> 1. The month, day, and year the file was saved; 2. The hour, minutes, and seconds the file was saved in the ACDS file server's time zone; 3. The ACDS User ID of the person who attached the form; 4. All or part of the taxpayer's name; and 5. The 10-digit case work unit number.

8.6.2.3.2
(03-16-2015)
Using Form 5402 as the Appeals Case Memo (ACM)

- (1) Sometimes all comments and rationale about the case could fit into the "Remarks" section of the Form 5402. In these instances, the Form 5402 serves as the entire ACM. In the three examples described below (not all-inclusive), Form 5402 alone is sufficient; no **Schedule of Adjustments** is needed. IRM 8.6.2.3(2) describes when to use the Schedule of Adjustments with Form 5402.

a. **Very simple agreed case:**

Example: *The taxpayer previously provided receipts to the Examiner, which were not allowed because (insert reason). The taxpayer submitted the same documents to the AO. The AO considered and determined the receipts were allowable and the taxpayer was entitled to the deduction because (insert reason). . The AO conceded the issue in full.*

b. **Full concession by the taxpayer:**

Example: *The taxpayers conceded this case in full. See the attached examination report for a discussion of the issues.*

c. **Full resolution by Exam upon re-involvement with the case:**

Example: *The examiner considered and resolved a new issue that the taxpayer raised in Appeals for this docketed case. I concur with the findings. See the examiner's workpapers in the administrative file.*

8.6.2.3.3
(08-17-2017)
Using Form 5402 as an Alert

- (1) Always use Form 5402 to alert the ATM and/or APS employee of significant items in the case that must be promptly addressed. "Alerts" could include the following:

- a. Imminent statute date;
- b. Amount(s) of advance payment(s) and payment period(s);
- c. IRC 6603 deposit(s) and deposit period(s);
- d. IRC 6404(g) interest suspension;
- e. Court jurisdiction, if appropriate;
- f. Special processing instructions;
- g. Special assessment instructions; and/or
- h. A "note" that the taxpayer's settlement affects other period(s) or related taxpayer(s). See IRM 8.6.2.8.

8.6.2.3.4
(03-16-2015)
**Routing Form 5402 and
ACM Feedback to LB&I
for Non-ATCL Cases**

- (1) For cases worked outside the Appeals Team Case Leader (ATCL) Operations and the Issue Management System (IMS), the Appeals Team Managers (ATM) will forward ACMs and Form 5402 via encrypted E-mail to a centralized point of contact within LB&I and to the LB&I Team Manager. The ATM will do the following:
 - a. Send the ACM and Form 5402 feedback via encrypted E-mail to the **Outlook** mailbox at *lbi.acm.distribution@irs.gov* and to the LB&I Team Manager;
 - b. Include in the email subject line the Appeals Work Unit Number (WUNO) assigned to the case;
 - c. Forward the feedback within **10 business days** of case closing; and
 - d. Document the case activity record that the feedback was timely sent to LB&I.

Note: When a closing agreement is secured that may require follow-up action by the operating division, IRM 8.13.1.5.5 requires a copy be provided to the operating division.

- (2) LB&I cases worked by ATCL operations will follow a separate procedure, which is described in IRM 8.7.11. See *Appeals Applications Website* for information about the Issue Management System (IMS).
- (3) APGolf Form 5402 will automatically populate for Primary Business Codes 301 - 399, with routing information for ATCL and non-ATCL feedback routing instructions to LB&I.

Note: For cases worked in IMS , upload the feedback documents (Form 5402, ACM, and computations) to IMS instead of sending them to the LB&I Outlook mailbox.

8.6.2.3.5
(07-26-2022)
**5402 and ACM Case
Closing Procedures**

- (1) Appeals Technical Employees (ATEs) will upload their final ACM/5402 into the Appeals Centralized Database System (ACDS) for **all** cases. ATEs who work cases in other systems, for example, IMS, will also upload their final ACMs/ 5402s in ACDS.
- (2) When uploading the ACM, ATEs will name the file using the format “WUNO-XXXXXXXXXX-ACM” (substituting the case’s actual work unit for the Xs). This format will ensure proper association with the case file and make clear that the work unit number (WUNO) originated with Appeals.
- (3) Only the final version of the ACM will be maintained on ACDS. Prior versions of the ACM, if previously uploaded, must be removed.
- (4) When an ATE uploads an electronic signed Form 5402 and/or final ACM to ACDS, the ATE is no longer required to include paper copies of these documents in the case file.

Note: In the event that an ACM addresses more than one WUNO, the ATE must upload the final ACM to each case record using the naming convention described above.

- (5) Account and Processing Support (APS) will electronically transmit Forms 5402 and ACMs to the originating functions and otherwise follow the current guidance specified in Appeals IRM 8.20.7, Closing Procedures.

8.6.2.4
(08-17-2017)
Preparing a Schedule of Adjustments

- (1) The *Schedule of Adjustments* is part of an ACM that involves a proposed tax liability. There are two versions: Form 9393 or the ACDS computer macro. The schedule is a summary of the case.
- (2) Occasionally the *Schedule of Adjustments*, combined with Form 5402, is the entire ACM when everything is explained with ACM codes. See IRM 8.6.2.4.7.
- (3) Large and complex cases may need more information than shown on the standard *Schedule of Adjustments*. Also, see IRM 8.7.11 , Working Appeals Team Cases, for guidance on preparing the *Schedule of Adjustments*.

8.6.2.4.1
(03-21-2012)
Issue Numbers in the Schedule of Adjustments

- (1) List issues in an order that makes sense for the case. For example, start with the most significant issue, or group related issues.
- (2) The *Schedule of Adjustments* frequently serves as the instructions to the Tax Computation Specialist. It's important to list all issues shown on the examiner's report, even if they weren't protested. The examiner's index (on Form 4318 or Form 4700) provides a list of the examiner's adjustments, including statutory adjustments.

8.6.2.4.2
(08-17-2017)
Listing the Issues in the Case

- (1) Specifically identify and list the issue(s) on the Schedule of Adjustments as illustrated below and in the example at IRM 8.6.2.4.5 (4).
 - a. Income from debt cancellation
 - b. Schedule C gross income
 - c. Passive activity loss from S Corporation
 - d. Self-employment tax
 - e. Self-employment tax deduction
 - f. Itemized deductions
 - g. Exemption deduction
 - h. Accuracy-related penalty
- (2) Use this section to identify unusual items such as:
 - a. A new issue [See IRM 8.6.1.7.]
 - b. An alternative issue, as shown in the example below:

Issue Number	Description	Tax Period	Examiner's Adjustment	Appeals Change to Adjustment	Appeals Adjustment	ACM Code
21	Horse Racing IRC 183	2008	10,000	0	10,000	

Alternatively, are the claimed amounts allowable under IRC 162?

- c. **Claim amounts** - show "date filed" and "adjustment amount." For multiple claims, attach a separate schedule. See the example below:

Issue Number	Description	Tax Period	Examiner's Adjustment	Appeals Change to Adjustment	Appeals Adjustment	ACM Code
19	Depreciation	2008	(3,000)	(4,000)	(7,000)	

Issue Number	Description	Tax Period	Examiner's Adjustment	Appeals Change to Adjustment	Appeals Adjustment	ACM Code
<i>Claim timely filed on 6/15/10 for additional depreciation.</i>						

Note: The “**Examiner’s Adjustment**” is the amount that the examiner allowed (\$3,000). The “**Appeals Change to Adjustment**” is the additional \$4,000 amount allowed by Appeals. Thus, in this example, the total reduction allowed (or “**Appeals Adjustment**”) is \$7,000 (as a result of the claim). This represents the additional depreciation deduction or the increase in the depreciation deduction “shown on the return or the previously adjusted amount.”

8.6.2.4.3
(08-17-2017)
Tax Period in the Schedule of Adjustments

- (1) Use the “*Schedule of Adjustments*” for more than one tax period. See IRM 8.6.2.4.5 (4).

8.6.2.4.4
(08-17-2017)
Examiner’s Adjustment

- (1) This is an adjustment to an income item, deduction, credit, penalty, or tax. Substitute a word, such as “applies”, if a dollar amount doesn’t work. See IRM 8.6.2.4.5 (4).
- (2) The “**Examiner’s Adjustment**” is generally the only column that can be completed when preparing a rough draft *Schedule of Adjustments*.

8.6.2.4.5
(08-17-2017)
Appeals Change to Adjustment

- (1) This column illustrates the addition or subtraction necessary to get from the “**Examiner’s Adjustment**” to “**Appeals Adjustment**.” Show (in brackets) the reductions to the “**Examiner’s Adjustments**.”
- (2) If a dollar amount doesn’t work, substitute a word, such as “sustained” or “conceded.” See the example below.
- (3) If the issue is unagreed, use this column to show the settlement proposal. *Footnote the proposed settlements the taxpayer didn’t accept.*
- (4) See the following example of a “Schedule of Adjustments”, and see IRM 8.6.2.4.7 for ACM codes.

Issue Number	Description	Tax Period	Examiner's Adjustment	Appeals Change to Adjustment	Appeals Adjustment	ACM Code
1	Income from debt cancellation	2010	42,000	(37,000)	5,000	
2	Schedule C gross income	2010	32,000	(4,000)	28,000	

Issue Number	Description	Tax Period	Examiner's Adjustment	Appeals Change to Adjustment	Appeals Adjustment	ACM Code
		2011	25,000	(15,000)	10,000	
3	Passive activity loss from S corp.	2010	27,900	0	27,900	A
		2011	14,500	0	14,500	A
4	Self-employment tax	2010	4,521	(565)	3,956	D
		2011	3,071	(1,843)	1,228	D
5	Self-employment tax deduction	2010	(2,261)	283	(1,978)	D
		2011	(1,536)	922	(614)	D
6	Itemized Deductions	2010	1,993	(815)	1,178	A / D
		2011	759	(281)	478	D
7	Exemption Deduction	2010	3,650	0	3,650	A
		2011	3,700	0	3,700	A
8	Accuracy related penalty - <i>Substantial Understatement</i>	2010	applies	conceded	conceded	
9	Accuracy related penalty - <i>Negligence</i>	2011	applies	sustained	sustained	
Reason Codes:						
A	taxpayer now agrees		C	taxpayer substantiated		
B	accepted by examiner		D	computational adjustment		

8.6.2.4.6
(08-17-2017)
Appeals Adjustment

- (1) This is the *revised adjustment* to the return or “previously adjusted return amount” for an income item, deduction, credit, penalty, or tax after Appeals consideration. If a dollar amount doesn’t work, use a word. See example in IRM 8.6.2.4.5 (4).

8.6.2.4.7
(08-17-2017)
Appeals Case Memo (ACM) Codes

- (1) You may use ACM codes instead of narrative explanations for issues in the following situations:

ACM Code	ACM Code Description
A	Taxpayer Now Agrees - Use when the taxpayer concedes the issue in full after the case is in Appeals.
B	Accepted by Examiner - Use when an examiner reviews and accepts the taxpayer’s verification. Make the examiner’s work papers part of the case file. For example, when an examiner reviews records while the case is in Appeals or when the Campus processes a partial abatement after a Statutory Notice of Deficiency is petitioned.
C	Taxpayer substantiated - Use when the taxpayer provides you with cancelled checks, receipts, logs, or other documents to substantiate expenses. Include a brief “note” to state the nature of the substantiation, and ensure the file contains sufficient information to support the conclusion.
D	Computational Adjustment - Use for “automatic adjustments” or “computational adjustments” that result solely from other issues.
A / D	Taxpayer Now Agrees / Computational Adjustment - Use when the taxpayer concedes the issue in full after the case is in Appeals, but there are automatic or computational adjustments that results solely from other issues.

- (2) Don’t use an ACM Code when the issue is settled based on hazards, new issues are raised (other than computational or automatic adjustments), or if the substantiation is oral testimony. If either situation applies, a narrative explanation is necessary.

Note: See IRM 8.6.2.4.5 (4) for an example of ACM codes used in a *Schedule of Adjustments* for Issue # 6. In this example, both codes A and D were used to reflect that there were automatic or computational adjustments that represented only part of the adjustment. For the remaining portion, the taxpayer fully conceded.

- (3) Consider the guidance throughout IRM 8.6.2 to determine whether it’s acceptable to use an ACM code, especially in regards for ACM Code C.

8.6.2.5
(08-17-2017)
Preparing a Brief Narrative

- (1) A brief narrative is appropriate for any issue that doesn’t require a lengthy explanation and an ACM code doesn’t apply. Sometimes simple explanations are needed in addition to a *Schedule of Adjustments*. In that case, use a brief narrative available on APGolf. An unagreed case or a “hazards” settlement will almost always require a longer narrative.
- (2) Don’t use a brief narrative for:

- A case requiring Joint Committee review; or
- A *return preparer penalty* case going to the *Office of Professional Responsibility*.

- (3) The narrative should be brief, yet it needs to include:
- The taxpayer's position;
 - The examiner's position; and
 - The rationale for the settlement.
- (4) Include references to supporting workpapers, and identify workpaper number(s) to support the narrative. The administrative file should contain the necessary information to support the conclusion. Don't increase the volume or content of workpapers to compensate for the brevity of the narrative.
- (5) Consider using Form 14559, Appeals Offer in Compromise Memorandum and Form 14561, Income and Expense/Asset Equity Calculation Table to limit the written analysis. See IRM 8.6.2.2.2 (3).

8.6.2.6
(10-18-2007)
Preparing a Longer Narrative

- (1) Sometimes a brief narrative isn't enough to cover all of the details. This section shows how to write a longer narrative. The longer narrative may have as many as four sections:
- a. Summary and Recommendation - *Required*
 - b. Brief Background - *Use only when necessary*
 - c. Discussion and Analysis - *Use only when necessary*
 - d. My Evaluation - *Use only when necessary*

8.6.2.6.1
(08-17-2017)
"Summary and Recommendation" in the Appeals Case Memo (ACM)

- (1) The *Summary and Recommendation* is the first section of the narrative and is required in all ACMs. See IRM 8.6.2.4 (2) for an exception. It briefly summarizes the issue and the recommendation. It's important to say enough to cover all the most important matters, yet still be concise enough that the reader doesn't feel bogged down in details.
- (2) If the issue is simple, this section may be all that's needed. Include a summary and brief analysis of what the taxpayer and examiner did or said. Also, briefly state the rationale for your recommendation. Include the "hazards of litigation" facing the government and how they affect the settlement.

8.6.2.6.1.1
(03-16-2015)
The Issue and Your Recommendation in the Appeals Case Memo (ACM)

- (1) Frame the issue as a question to help you focus your discussion. You don't always have to answer "Yes" or "No." Sometimes your answer may be qualified. But in any case, before you start the discussion, give your reader the answer. Correctly framing the issue sets up the discussion that follows. Here are some examples:

Question

Answer

Example 1:

Q: Is the taxpayer liable for self-employment tax?

A: Based on the hazards of litigation, I proposed conceding 25% of the self-employment tax.

Example 2:

Question

Answer

Q: What percent, if any, of his home expense can the taxpayer claim as an office in the home?

A: I offered to allow a 10% business usage for a home office deduction.

Example 3:

Q: Did *SB Corporation* file a timely Subchapter S election for 2009?

A: Yes-the government should concede the issue.

8.6.2.6.2
(03-16-2015)
**“Brief Background”
Section of the Appeals
Case Memo (ACM)**

- (1) This is an optional section used to describe anything general to the entire issue. Think of this section as a way to give your reader just the basic facts. Save other facts for later, and put them where the reader needs them. Notice that there’s nothing controversial in the section. It simply says enough to give context for what follows.

Example: *John Sample* and *Jay Bird* incorporated under the name *SB Corporation*. Each shareholder owned 50% of the corporation, and *SB Corporation* is in the business of veterinary medicine. The examiner is completing *Jay Bird’s* case separately; therefore, it isn’t associated with this file in Appeals.

8.6.2.6.3
(03-16-2015)
**“Discussion and
Analysis” Section of the
Appeals Case Memo
(ACM)**

- (1) This is your main discussion, so it needs a clear structure. Also, this ACM section contains the most detail.
- (2) This section gives the essence of both sides’ contentions, sets out new information provided at the conference, and analyzes the law and applicable case law arguments. Clearly present each main point. In this way, you’ll have a blueprint for your discussion.
- (3) Present the discussion in an order that’s best suited for the issue. Consider the following methods:
 - a. Start with the taxpayer’s position - if the taxpayer has specific distinguishable arguments.

Example: The taxpayer’s husband contends that he paid his wife wages and she performed the work of an employee.
 - b. Begin with a brief paraphrase of the law - if the taxpayer doesn’t have specific arguments.

Example: According to Treasury Reg. section 1.1362-6, for an election to be timely filed for a tax year, a completed Form 2553 must be filed by March 15th of the year. All shareholders of the corporation (at the time of the election) must consent to the election.
- (4) If the examiner and the taxpayer have presented case law arguments, distinguish the citations and compare them and their applicability to the facts of the issue. If you need to analyze an issue or point of law in depth, give your analysis completely - but without unnecessary verbiage.
- (5) Distinguish alleged facts from verified or accepted facts.
- (6) Use dates, if important, when listing events.

8.6.2.6.4
(10-18-2007)
**“My Evaluation” Section
of the Appeals Case
Memo (ACM)**

- (1) Use this section to support the proposed resolution framed in your *Summary and Recommendation* section. Normally, this section will be necessary for issues which are:
- Unagreed.
 - Resolved based on hazards of litigation.
 - Factually or legally complicated.

8.6.2.6.4.1
(08-17-2017)
**Unagreed Issues in the
Appeals Case Memo
(ACM)**

- (1) If the issue is unagreed, include information that focuses on the evidence available for presentation as though the case is going to trial. The focus will be on the probative value of the evidence likely to be presented as proof of a fact.
- (2) Consider the following when preparing your evaluation:
- a. The credibility of a witness' testimony.
 - b. The availability of a witness.
 - c. Doubt as to an issue of fact - such as authenticity and admissibility of documents, records, books, and other writing.
 - d. Your settlement range - using percentages or dollar amounts. See IRM 8.6.2.6.4.2.

Note: This helps the Counsel attorney - both in the discovery process and settlement negotiations.

8.6.2.6.4.2
(10-18-2007)
**Resolved Based on
Hazards of Litigation**

- (1) Discuss the various factors that you considered in arriving at your settlement. The reader should understand why your settlement is appropriate. Explain the steps you took in your evaluation process as follows:
- a. Summarize the hazards that you identified in the discussion and analysis.
 - b. Weigh their strengths and weakness.
 - c. Determine the relative strengths of opposing positions.
 - d. Convert your verbal evaluation to a percentage or numerical determination.

8.6.2.6.4.3
(10-18-2007)
**Factually or Legally
Complicated Issues**

- (1) Bring together your discussion of factually or legally complicated issues in summary form. In a long discussion, the reader has seen a lot of facts or material. Therefore, you may need to do a short summary to bring the reader back to the end result. Don't use a summary, unless it's needed; otherwise, your memo will appear repetitive.

8.6.2.7
(08-17-2017)
**Settlement
Computations as Part of
the Appeals Case Memo
(ACM)**

- (1) After recommending adjustments to the prior determination, the settlement computation is prepared - setting forth the resulting tax liability and the necessary underlying computations. See IRM 8.6.2.7 (4) for exceptions.
- (2) The settlement computations are attached to - and become part of - the administrative file. A copy is also part of the ACM.
- (3) The following forms are used (as needed) in settlement computations:
- a. Form 3610, Audit Statement.
 - b. Form 5278, Statement-Income Tax Changes.
 - c. Form 4549, Income Tax Examination Changes.
 - d. Form 4549-A, Income Tax Discrepancy Adjustments.
 - e. Form 4549-EZ, Income Tax Examination Changes.

Note: See IRM 8.17.2.8 for details.

- (4) A settlement computation isn't required in the following situations, unless needed for other computational purposes:
 - a. Compliance's findings are sustained in full
 - b. Compliance's findings are completely reversed
 - c. A *Statutory Notice of Deficiency* was issued - which adequately covers all adjustments
 - d. The determination in the *Statutory Notice of Deficiency* is "agreed in full"
 - e. The only issues in the case involve exempt status, private foundation classifications, or employee plan qualification questions
- (5) Ordinarily, settlement computations aren't required in an unagreed docketed case - but if the Government raises in its pleadings a new issue or the ATE concedes an issue, one might be necessary.
- (6) For some docketed cases, Form 3623, Statement of Account, is prepared and attached to the settlement computation. See IRM 8.17.3 , Preparing a Statement of Account.

8.6.2.8
(03-16-2015)
Settlements that Affect the Taxpayer's Other Years or Related Taxpayers

- (1) When an Appeals settlement affects the taxpayer's liability for other years or a related taxpayer's liability not under Appeals' jurisdiction, additional information might be needed in the ACM and/or Form 5402. See the following examples:
 - a. Basis adjustment - Include depreciation schedules.
 - b. Carryback adjustments - Include schedule showing corrected use of the carryback and affected years.
- (2) Ensure that Form 5402 identifies the settlement as one affecting other years or other taxpayers.
- (3) Review IRM 8.2.3.7, Compliance Follow-Up Action Required on Related Years or Taxpayers for additional information to ensure appropriate instructions are included on the ACM and Form 5402.

8.6.2.9
(03-16-2015)
Transferring a Case to Counsel's Jurisdiction

- (1) When transferring a case to Counsel's jurisdiction,
 - a. Include conference notes in the file so Counsel is aware of conference activity.
 - b. Explain the recommended settlement.
 - c. Briefly explain efforts to resolve the case where there's been little or no cooperation from the taxpayer or representative.
 - d. Document the taxpayer's failure to do the following: supply requested information, attend offered conferences, or cooperate in resolving the case.
 - e. Explain any Appeals findings or observations that might be helpful to Counsel.

