



# MANUAL TRANSMITTAL

Department of the Treasury  
Internal Revenue Service

8.7.20

MARCH 10, 2022

## EFFECTIVE DATE

(03-10-2022)

## PURPOSE

- (1) This transmits new IRM 8.7.20, Technical and Procedural Guidelines, Appeals Cases Involving Shared Responsibility Payment (SRP) Under IRC 5000A.

## MATERIAL CHANGES

- (1) Added new IRM 8.7.20.1, Program Scope and Objectives, and its subsections that contain internal control information required by IRM 1.11.2.2.5, Address Management and Internal Controls.
- (2) Added to IRM 8.7.20.1.7, Related Resources, information on the Taxpayer Bill of Rights (TBOR), 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) Incorporated guidance from *IGM # AP-08-0321-0007*, Reissuance of Shared Responsibility Payment (SRP) Instructions to Appeals Technical Employees (ATE), and Account and Processing Support (APS) Tax Examiners (TE), dated March 15, 2021.

## EFFECT ON OTHER DOCUMENTS

This new IRM 8.7.20 incorporates Interim Guidance Memorandum AP-08-0321-0007, Reissuance of Shared Responsibility Payment (SRP) Instructions to Appeals Technical Employees (ATE), and Account and Processing Support (APS) Tax Examiners (TE), dated March 15, 2021.

## AUDIENCE

IRS Independent Office of Appeals

Steven M. Martin  
Director, Case and Operations Support



8.7.20

Appeals Cases Involving Shared Responsibility Payment (SRP) Under IRC 5000A

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# Appeals Cases Involving Shared Responsibility Payment (SRP) Under IRC 5000A 8.7.20

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8.7.20.1  
(03-10-2022)  
**Program Scope and  
Objectives**

- (1) *Purpose:* This IRM provides guidance to Appeals Technical Employees (ATEs) working individual income tax liability cases with related Shared Responsibility Payment (SRP) issues to assist in:
  - a. Determining whether the SRP rules apply
  - b. Confirming the case is correctly carded-in on the Appeals Centralized Database System (ACDS)
  - c. Ensuring a consent for extending the assessment statute expiration date (ASED) covers the income tax and SRP liabilities
  - d. Confirming that Compliance has assessed the SRP liability related to an individual's docketed income tax case
  - e. Confirming the closing documents contain instructions for assessing a sustained SRP liability and that the SRP liability is excluded from the Statutory Notice of Deficiency (SND) for an unagreed non-docketed income tax case
- (2) *Audience:* Appeals Technical Employees
- (3) *Policy Owner:* Director, Case and 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 Content Point of Contact (POC) shown on the Product Catalog Information page for this IRM.

8.7.20.1.1  
(03-10-2022)  
**Background**

- (1) The mission of the IRS 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 8.1.1.1, Accomplishing the Appeals Mission.

8.7.20.1.2  
(03-10-2022)  
**Authority**

- (1) In 2010, The Patient Protection and Affordable Care Act, P.L. 111-148 (commonly known as the Affordable Care Act or ACA), added section 5000A to the Internal Revenue Code. IRC 5000A requires that, beginning in 2014, individuals must have qualifying health coverage (called minimum essential coverage or MEC) for each month, qualify for a health coverage exemption, or make a shared responsibility payment (SRP) with their income tax returns. The SRP is assessed and collected in the same manner as an assessable penalty under IRC Chapter 68, Subchapter B and is not subject to deficiency procedures. See IRC 5000A(g)(1). A taxpayer is not subject to any criminal prosecution or penalty for the taxpayer's failure to timely pay the SRP. See IRC 5000A(g)(2)(A). In collecting the SRP, the IRS cannot file a Notice of Federal Tax Lien nor levy on the taxpayer's property. See IRC 5000A(g)(2)(B). See also the following Treasury Regulation sections:
  - 26 CFR 1.5000A-1, Maintenance of Minimum Essential Coverage and Liability for the Shared Responsibility Payment
  - 26 CFR 1.5000A-2, Minimum Essential Coverage

- 26 CFR 1.5000A-3, Exempt Individuals
- 26 CFR 1.5000A-4, Computation of Shared Responsibility Payment
- 26 CFR 1.5000A-5, Administration and Procedure

- (2) The amount of the SRP was reduced to zero by the Tax Cuts and Jobs Act (TCJA) of 2017, P.L. 115-97, effective with respect to health care coverage status for months beginning after December 31, 2018.

8.7.20.1.3  
(03-10-2022)  
**Responsibilities**

- (1) The Director, Case and 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.
- (3) The policy analyst shown on the Product Catalog page as the "Content POC (Point of Contact)" is the assigned author of this IRM.

8.7.20.1.4  
(03-10-2022)  
**Program Reports**

- (1) PPQA provides trend and data analysis and detailed summary reports for Appeals.

8.7.20.1.5  
(03-10-2022)  
**Acronyms**

- (1) The following table lists commonly used acronyms.

| Acronym      | Definition   |
|--------------|--|
| ACDS         | Appeals Centralized Database System (IRM 8.20.3)   |
| ACM          | Appeals Case Memo (IRM 8.6.2)                      |
| APS          | Account and Processing Support                     |
| ASED         | Assessment Statute Expiration Date                 |
| ATE          | Appeals Technical Employee                         |
| CC           | Command Code                                       |
| Feature Code | An ACDS code that identifies special case features |
| IDRS         | Integrated Data Retrieval System                   |
| MFT          | Master File Tax                                    |
| SND          | Statutory Notice of Deficiency                     |
| TC           | Transaction Code                                   |
| TCS          | Tax Computation Specialist                         |
| WUNO         | Work Unit Number                                   |

- (2) Also, see Exhibit 8.1.1-1, Common Terms Used in Appeals.

8.7.20.1.6  
(03-10-2022)  
**Terms Defined**

- (1) The following table identifies common terms and their definitions related to IRC 5000A:

# Appeals Cases Involving Shared Responsibility Payment (SRP) Under IRC 5000A 8.7.20

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| Term                       | Definition   |
|----------------------------|--|
| Carded-in                  | Process for adding new case receipt to ACDS  |
| Compliance                 | Also referred to as the “originating function” - An organization within the IRS that makes determinations subject to the Appeals process. See IRM 8.1.10.1.5.  |
| Marketplace                | The Health Insurance Marketplace (also known as the “Marketplace/Exchange”) provides health plan shopping and enrollment services through websites, call centers, and in-person help.  |
| Minimum Essential Coverage | Minimum essential coverage is health coverage that satisfies the requirement for individuals to have health coverage. Minimum essential coverage includes, but is not limited to: <ul style="list-style-type: none"><li>• Government sponsored programs such as Medicare, Medicaid, CHIP, and TRICARE</li><li>• Employer-sponsored plans</li><li>• Plans in the individual market, including a qualified health plan offered by the Health Insurance Marketplace</li><li>• Grandfathered health plans</li><li>• Other coverage such as State health benefits</li></ul> |

8.7.20.1.7  
(03-10-2022)

## Related Resources

- (1) This IRM is the primary source of policy and procedural guidance for Appeals cases with an SRP liability issue. Also, see the following IRM related sections:
  - IRM 4.19.3.16.11, Health Care - Individual Shared Responsibility Payments (SRP) - TY 2018 and prior
  - IRM 4.19.13.10.7, Shared Responsibility Payment (SRP)
  - IRM 4.19.19.11, Shared Responsibility Payment (Tax Years(s) 2014 Through 2018)
  - IRM 21.6.4.4.20, Individual Shared Responsibility Provision
- (2) For additional information, visit:
  - Appeals' *Affordable Care Act (ACA) program page*, accessible from Appeals' Examination Policy Resources SharePoint page
  - The IRS “Individual Shared Responsibility Provision - Minimum Essential Coverage” web page at <https://www.irs.gov/affordable-care-act/individuals-and-families/individual-shared-responsibility-provision-minimum-essential-coverage>.
- (3) 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>.

8.7.20.2  
(03-10-2022)  
**Appeals Technical  
Employee (ATE) -  
Receipt of Newly  
Assigned Case**

- (1) Appeals will not accept a pre-assessed non-docketed income tax (MFT 30) or SRP (MFT 35) liability case if the number of days remaining on the ASED for a new receipt is less than 365 days. Follow the procedures in IRM 8.2.1.4, Receipt of New Assignment by an Appeals Technical Employee (ATE), that require the ATE to complete initial case actions within 45 days of receiving a newly assigned or transferred case. See IRM 8.21.3.2.1, New Receipts and Transfers, for Appeals' case acceptance criteria and IRM 8.7.20.2.1, Protecting the Assessment Statute Expiration Date, for guidance on protecting pre-assessed income tax and SRP liabilities.
- (2) When an SRP MFT 35 case file is associated with an income tax case, APS will establish a separate ACDS record for the MFT 35 using the same work unit number (WUNO) as the MFT 30. See IRM 8.20.5.3.1.6, Workunit Number (WUNO). Verify the case for both liabilities is correctly carded-in on ACDS, as described in IRM 8.20.3, Appeals Centralized Database System (ACDS), and IRM 8.20.5.32, Shared Responsibility Payment. Validate all critical data fields on ACDS and make the necessary changes following procedures in IRM 8.20.3. Verification includes confirming on ACDS that:
  - a. The MFTs are correctly shown for the income tax and SRP
  - b. The ACDS type is shown as "I "(Income) for both the MFT 30 and MFT 35 liabilities
  - c. The ACDS feature code "AC" was entered for the MFT 30 and MFT 35 records
  - d. The SRP tax period (i.e. "TAXPER") is correctly shown on ACDS with an "S" to distinguish the SRP liability and its ASED from the proposed income tax and its ASED (For example, a 2018 SRP liability will be shown as "201812S".)
  - e. ACDS reflects the correct ASED for a pre-assessed SRP or that the SRP has been assessed (Use ACDS Statute Code "ASESD" for an assessed liability.)
  - f. The case file documents reflect that Compliance raised the SRP.
- (3) Appeals can determine whether Compliance raised the SRP issue, along with the income tax liability issues, by reviewing the following:
  - a. Form 3198, Special Handling Notice for Examination Case Processing
  - b. Form 8278, Assessment and Abatement of Affordable Care Act (ACA) Assessable Payments
  - c. An IDRS account transcript, using CC IMFOL (with definer code "I"), to confirm that Compliance established an MFT 35 module for the SRP liability (See IRM 2.3.51, Command Code IMFOL.)

**Note:** For a new receipt with an assessed SRP, Form 3198 will contain a notation indicating that the SRP has been assessed.

**Note:** Changes made to income, filing status and dependent exemptions would be indicators that the SRP may be affected.

- (4) SRP liability determinations are not reviewed by the United States Tax Court. Therefore, an SRP associated with an individual's docketed income tax deficiency case must be assessed by Compliance before forwarding the case file to Appeals. If Compliance has not assessed the SRP amount associated with the docketed income tax case, take the necessary actions depending on whether the examiner's manager signed Form 8278, Assessment and Abatement of Affordable Care Act (ACA) Assessable Payments.



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- a. If the file contains a Form 8278 signed by the examiner's supervisor, take the necessary actions to have the SRP assessed.
  - b. If the file does not contain a signed Form 8278 signed by the examiner's supervisor, return the SRP case file to Compliance per IRM 8.2.1.5(2)(f). (For premature referral procedures, see IRM 8.2.1.4.2. No Initial Contact Letter Required for Certain Cases.)
- (5) For non-docketed income tax cases, mail Letter 5157, Non-docketed Acknowledgement & Conference, with required enclosures. See IRM 8.2.1.4, Receipt of New Assignment by an Appeals Technical Employee (ATE).
- (6) For docketed income tax cases, mail Letter 3808, Docketed Acknowledgment and Conference (To Petitioner), or Letter 3808-A, Docketed Acknowledgment and Conference (To Counsel of Record). See IRM 8.4.1.8, Preliminary Review of Assigned Docketed Case.
- (7) There may be instances when an MFT 35 account needs to be mirrored using MFT 65. An MFT 65 requires a related ACDS record with the same WUNO as the key case to control the MFT 65 for the separate spouse. If mirroring is required, Compliance may or may not have established the MFT 65. For more information, see IRM 21.6.8.2, Split Spousal Assessments Overview.
- (8) MFT 65 is created when the module meets one or more of the following conditions:
  - a. Each spouse is liable for different amounts
  - b. Each spouse has different penalty and/or interest suspension periods
  - c. Each spouse has a different statute of limitations

**Note:** See IRM 21.6.8.4, What is MFT 31 / MFT 65.

## 8.7.20.2.1 (03-10-2022) Protecting the Assessment Expiration Date

- (1) The general ASED for assessing the SRP imposed by IRC 5000A is the same as that imposed by IRC 6501(a), Limitations on Assessment and Collection, for the income tax reported on the federal income tax return on which the individual SRP is to be reported. See 26 CFR 1.5000A-5(a).
- (2) An alternative ASED or other IRC section that would ordinarily extend the normal three-year ASED, such as the situations listed below, generally will not protect the ASED for the SRP:
  - An Alpha statute as referenced in IRM 25.6.23-3, Instructions for Updating the Statute on AIMS, or
  - The suspension provisions of IRC 6503, Suspension of Running of Period of Limitation, effective upon issuance of an SND.

**Note:** Only ASED suspensions that relate directly to the reporting of health care coverage or time periods disregarded for all purposes, such as what may be provided for under IRC 7508, Time for Performing Certain Acts Postponed by Reason of IRS in Combat Zone or Contingency Operation, will also suspend the period of limitations for the individual SRP.
- (3) The ASED for the SRP can be extended by consent using Form 872, Consent to Extend the Time to Assess Tax, or Form 872-A, Special Consent to Extend

the Time to Assess Tax. To specifically identify the SRP period of limitations, insert the term "Section 5000A Shared Responsibility Payment" in the "Kind of tax" line of the form.

**Caution:** An executed consent form that identifies only "income" as the kind of tax will extend the ASER for the income tax only, but not the SRP.

**Note:** Individuals who file a joint return are jointly liable for the individual SRP. See IRM 25.6.22.6.1.1, Joint Returns, for guidance on securing consents from jointly filed taxpayers.

- (4) IRS employees may use a single consent form to secure agreements to extend both the income tax and the individual SRP assessments; however, both assessment types ("Section 5000A Shared Responsibility Payment" and "income") must be listed on the "Kind of tax" line of the consent form. When soliciting consents on one form for both liability types, do not line through the word "tax" to the right of the entry field. When preparing a consent form exclusively for the SRP, line through the word "tax". See IRM 25.6.22.5.4, Kind of Tax.

8.7.20.3  
(03-10-2022)  
**Individual Shared  
Responsibility Provision  
under IRC 5000A**

- (1) For tax years 2014 - 2018, individuals must either have minimum essential coverage, have a health coverage exemption, or make a shared responsibility payment (SRP) with their income tax return. The SRP is the penalty imposed under IRC 5000A, Requirement to Maintain Minimum Essential Coverage, if an applicable individual in a tax household lacks minimum essential coverage for any month. Taxpayers will either:
  - a. Check the full-year coverage check box on page 1 Form 1040 (Tax Year 2018) if everyone in their family had coverage for the full year, or
  - b. Attach Form 8965, Health Coverage Exemptions, if anyone in their family is claiming an exemption for one or more months, or
  - c. Make a Shared Responsibility Payment.

**Note:** See IRM 21.6.4.4.20.2, Form 8965, Health Coverage Exemptions, for more information on the exemption types and the associated exemption codes.

- (2) When the taxpayer checks the full-year coverage box on their return or if it is added from an amended return, IDRS CC TXMOD displays "1" for full year coverage in the COVERAGE-IND field. See IRM 2.3.11, TXMOD and SUMRY. If this is later changed or adjusted, a TC 290.00 with item Reference Number 869 may be present.
- (3) The SRP amount is reported on Form 1040, Schedule 4, line 61 (Tax Year 2018), and is posted to MFT 35 as a TC 240 with penalty reference number (PRN) 692. A TC 971 Action Code (AC) 530 will post to MFT 30 with the SRP amount in the memo field. This amount is not included in the TC 150 amount shown on MFT 30.
- (4) When a taxpayer reports an exemption post-processing, the exemption is recorded on MFT 30, on CC TXMOD with a TC 971. Since the exemption can be for the entire family, individual members of the family, different reasons, for the entire year, or just part of the year, multiple TC 971 action codes may be needed.

# Appeals Cases Involving Shared Responsibility Payment (SRP) Under IRC 5000A 8.7.20

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- TC 971 AC 175 adds the exemption.
- TC 971 AC 176 signifies the exemption is no longer valid.

- (5) A tax household generally includes the taxpayer, their spouse (if filing a joint return), and any individual they claim as a dependent on their tax return. It also generally includes each individual the taxpayer can, but does not, claim as a dependent on their tax return. If more than one taxpayer may claim an individual as a dependent in the same calendar year but no one claims the individual as a dependent, the taxpayer with priority under the rules of IRC 152, Dependent Defined, to claim the individual as a dependent is liable for the SRP for the individual. See 26 CFR 1.5000A-1(c)(2).

**Note:** A dependent filing a return not claiming their own exemption may not address either of the above since it will be addressed on the parent(s) return.

- (6) For more information, see IRM 21.6.4.4.20, Individual Shared Responsibility Provision.

## 8.7.20.4 (03-10-2022) **Appeals Consideration of Shared Responsibility Payment Issue**

- (1) Appeals has primary responsibility for resolving disputes without litigation to the maximum extent possible. For guidance on conference procedures, preparing an Appeals Case Memo (ACM) and settlement options, see the following IRM guidance:
- IRM 8.2, Pre 90-Day and 90-Day Cases
  - IRM 8.4, Appeals Docketed Cases
  - IRM 8.6, Conference and Settlement Practices
  - IRM 1.2.1.9.6, Policy Statement 8-47, Consideration given to offers of settlement.
- (2) Appeals will consider an SRP (MFT 35) issue if Compliance made an adjustment to the SRP. Appeals will not raise new issues.

| If...   | Then...   |
|---|---|
| The SRP is not self-reported on the tax return and Compliance was silent on the issue | The SRP liability would be considered a new issue and not raised by Appeals |
| If the SRP is self-reported on the tax return and Compliance is silent on the issue   | Appeals will not raise it even as a potential computational adjustment      |

- (3) If a taxpayer raises SRP as a new issue on a non-docketed case, follow the procedures in IRM 8.6.1.7.4, Taxpayer Raises New Issue.

## 8.7.20.5 (03-10-2022) **Requesting Settlement Computations**

- (1) Follow normal procedures for requesting computations. See IRM 8.2.1.8, Requesting Work from Tax Computation Specialist. In addition, provide the following information for TCS to compute the SRP:
- a. Copy of original tax return
  - b. Date of birth of any dependents (if applicable)
  - c. Household income (including income of those dependents whose income meets the income tax return filing threshold)

- d. Months during the taxable year the taxpayer was not covered by insurance including dependents (if applicable)
  - e. Form 1095-A, Health Insurance Marketplace Statement (if applicable)
  - f. Form 1095-B, Health Coverage (if applicable)
  - g. Form 1095-C, Employer-Provided Health Insurance Offer and Coverage (if applicable)
  - h. Form 8965, Health Coverage Exemptions (if applicable)
- (2) See also IRM 8.17.3.3.9, Shared Responsibility Payment (SRP), and IRM 8.17.3.5, Tax Court Jurisdiction of Interest, Certain Penalties, and the SRP.

**Note:** A worksheet for computing the SRP is included in the instructions for Form 8965, Health Coverage Exemptions.

8.7.20.6  
(03-10-2022)

**Closing an Individual  
Tax Liability Case with  
an SRP Issue**

- (1) This section provides information on documents needed for closing an SRP liability issue. Every ACDS work unit requires an Appeals Case Memo (ACM) and a Form 5402, Appeals Transmittal and Case Memo. The ACM must adequately explain and support the basis on which a work unit is disposed. The exception to the requirement for an ACM is where disposition, including all ACM comments and rationale about the case, can fit in the Remarks section of the Form 5402.
- (2) Use Form 5402 to alert the ATM and/or APS employee of significant items in the case to be addressed. See IRM 8.6.2.3.2, Using Form 5402 as the Appeals Case Memo (ACM), and IRM 8.6.2.3.3, Using Form 5402 as an Alert. Alerts could include information on the following:
  - a. Imminent statute date
  - b. Amounts of advance payments and payment periods
  - c. IRC 6603 deposits and deposit periods
  - d. IRC 6404(g) interest suspension
  - e. Special assessment and/or processing instructions
- (3) **Form 5402 for Income Tax liability** - Complete a Customized Form 5402 for the MFT 30 income tax liability following normal procedures. Locate Form 5402 instructions by visiting Appeals' ACDS SharePoint page, clicking on "Customized 5402 Instructions and Contacts," and selecting "Customized - EXAM INCOME TAX."
  - a. Under "Related Taxpayers," add the case identifying information for the related MFT 35 SRP.
  - b. Use the appropriate closing code that applies to deficiency cases (e.g. closing code 03 for an agreed deficiency case closure). For a list of ACDS closing codes, see paragraph (20) of IRM 8.20.7.2, Introduction to Closing Procedures.
- (4) **Form 5402 for SRP liability** - Complete a second customized Form 5402 for the MFT 35 SRP liability following normal procedures.
  - a. Under "Related Taxpayers," add the case identifying information for the related MFT 30 income tax liability.
  - b. Include instructions for APS to assess the MFT SRP adjustment, as computed in the SRP computation worksheet
  - c. If an SRP adjustment is not required, include the following instructions to APS: "No SRP MFT 35 adjustment is required."

- d. Use one of the following Closing Codes:
  - 14 – Fully Sustained
  - 15 – Not Sustained
  - 16 – Part Sustained

- (5) For each tax period controlled on AIMS, prepare Form 5403 instructions. The assigned APS Tax Examiner will use these instructions to prepare Form 5403, Appeals Closing Record, for processing IDRS account adjustments and closing the AIMS module. Use IDRS command code AMDIS to determine if the account module is on AIMS. See IRM 2.8.3, AIMS Command Code AMDIS. Campus-sourced claims are generally not controlled on AIMS.

8.7.20.6.1  
(03-10-2022)  
**Non-Docketed  
Pre-assessed Income  
Tax Liability Case with  
an SRP**

- (1) **Income Tax Deficiency** - After Appeals completes its consideration of the proposed income tax and the associated SRP and agreement can't be reached, Appeals will issue a SND for the proposed income tax. The IRC 6503 suspension provisions will apply only to the income tax deficiency. If an agreement is reached for the proposed income tax liability, Appeals will secure an agreement using a Form 870 type agreement with language that waives the restrictions on assessing and collecting the income tax deficiency.
- (2) **SRP Liability** - The SRP is not subject to the Tax Court's review. The IRC 6503 suspension provisions that apply to the unagreed income tax deficiency do not apply to the sustained SRP liability. Therefore, Appeals will assess the SRP (if not already assessed). See IRM 8.7.20.2.1 (2), Protecting the Assessment Expiration Date.
- (3) If the income tax case is agreed, Appeals will identify the liability type and deficiency amounts on the appropriate Form 870 type agreement (and closing agreement, if applicable) under "Deficiencies (Overassessments) and Additions to Tax" section, but will not include the SRP amounts in that section. The ATE may include information on the final SRP determination in the remarks section of the Form 870 type agreement. Letter 969, Agreement Form Transmittal - Non-Docketed Case, is available for soliciting an agreement, using one of the following for an income tax liability:
  - a. Form 870, Waiver of Restrictions on Assessment and Collection of Deficiency in Tax and Acceptance of Overassessment
  - b. Form 870-AD, Offer to Waive Restrictions on Assessment and Collection of Tax Deficiency and to Accept Overassessment
- (4) If Appeals changes the proposed SRP liability, prepare a new Form 8278, Assessment and Abatement of Affordable Care Act (ACA) Assessable Payments, reporting the corrected amount.

8.7.20.6.1.1  
(03-10-2022)  
**Agreed Non-Docketed  
Individual Income Tax  
Liability Case with an  
SRP**

- (1) Prepare and/or secure the following documents for an agreed closure:
  - a. Customized Form 5402 for MFT 30 income tax liability, with instructions to process the agreed adjustments
  - b. Customized Form 5402 for MFT 35 SRP liability, with instructions to process the sustained amount
  - c. ACM covering MFT 30 income tax and MFT 35 SRP liabilities
  - d. Form 870 type agreement for income tax liability (and closing agreement, if needed)

- e. Settlement computations for income tax liability
- f. Form 8278 for SRP liability
- g. Computation worksheet for SRP liability
- h. Closing Letter 913, Agreed Cases - Closing, covering the agreed income tax liability. For the SRP liability, use an open paragraph to notify the taxpayer of a revised SRP amount.
- i. If Appeals finds no basis for revising the SRP, use closing Letter 913 only for the deficiency liability and closing Letter 6012, Appeals Shared Responsibility Payment Closing Letter, to notify the taxpayer of the SRP decision.

8.7.20.6.1.2  
(03-10-2022)

**Unagreed Non-Docketed Individual Income Tax Liability Case with an SRP**

- (1) Prepare and/or secure the following documents for an unagreed closure:
  - a. Customized Form 5402 for MFT 30 income tax liability, with instructions to mail SND
  - b. Customized Form 5402 for MFT 35 SRP liability, with instructions to assess the sustained SRP.
  - c. ACM covering MFT 30 income tax and MFT 35 SRP liabilities
  - d. Form 8278 for SRP liability
  - e. SRP computation worksheet, if revised
  - f. SND, with required enclosures, for the income tax (See IRM 8.17.4.4, How an AO Requests Preparation of a Notice of Deficiency.)
  - g. Closing Letter 6012, Appeals Shared Responsibility Payment Closing Letter, to notify the taxpayer of the SRP decision.

8.7.20.6.2  
(03-10-2022)

**Docketed Pre-assessed Income Tax Liability Case with an SRP**

- (1) The Tax Court does not have jurisdiction over the SRP even though its amount may change as a result of the income tax deficiency proceedings. While a statement of account is not required if there are changes to the SRP, the computations may be helpful to Counsel to prepare below-the-line stipulations on the decision documents, as discussed in paragraph (2) of IRM 8.17.3.5, Tax Court Jurisdiction of Interest, Certain Penalties, and the SRP.
- (2) The Tax Court may not have jurisdiction over interest provisions, or certain penalties. Therefore, normally assessment and payment information are not included on the statement of account for these non-jurisdictional items. This means that:
  - Generally interest amounts are not included on the statement of account and
  - Usually only penalties asserted in the notice of deficiency (if still applicable) are included.

8.7.20.6.2.1  
(03-10-2022)

**Agreed Docketed Individual Income Tax Liability Case with an SRP**

- (1) Prepare and/or secure the following documents for an agreed closure:
  - a. Customized Form 5402 for MFT 30 income tax liability (Include instructions for adjustment to the assessed SRP, if needed.)
  - b. ACM covering MFT 30 income tax (and for MFT 35 SRP adjustment, if needed)
  - c. Decision document (Consult with Area Counsel to prepare the decision document to add stipulated SRP language, if needed.)
  - d. Settlement computations for income tax deficiency
  - e. Form 8278 for SRP
  - f. Computation worksheet for SRP liability



**Note:** See IRM 8.4.1.11.2, Stipulation/Decision Preparation, which lists IRC 5000A issues as a complicated stipulation for which Appeals may ask counsel to prepare the necessary decision documents.

8.7.20.6.2.2  
(03-10-2022)

**Unagreed Docketed  
Individual Income Tax  
Liability Case with an  
SRP**

- (1) Prepare a Customized Form 5402 and ACM for the MFT 30 income tax liability, and process the MFT 30 income tax liability case for trial preparation following existing trial preparation procedures. If the SRP was previously assessed, include in Form 5402 the following instructions to Area Counsel:

**Note:** “NOTE TO COUNSEL: There is a related MFT 35 SRP assessment, which may be affected by the Tax Court’s decision in this case. Prior to closing the case to Appeals based on the decision, request an SRP computation from TCS following Counsel’s existing procedures for tax computation requests from Appeals.”

