

## ARBITRATION

If settlement negotiations are unsuccessful, taxpayers and Appeals may jointly request binding arbitration for qualifying, factual issues already in the Appeals administrative process after consulting with each other. Arbitration is also available after unsuccessful attempts to enter into a closing agreement under Internal Revenue Code section 7121.

Some of the cases excluded from Appeals arbitration are:

- Compliance and Appeals Coordinated Issues;
- Legal issues;
- Collection issues, except for those detailed in Announcement 2011-6, or subsequent guidance issued by the IRS;
- Those not consistent with sound tax administration;
- Frivolous arguments; and
- Those where you did not act in good faith during settlement negotiations.

For complete information, see Revenue Procedure 2006-44. The Model Agreement to Arbitrate in the revenue procedure allows the parties certain flexibility in designing the arbitration process.

## EX PARTE COMMUNICATIONS

Section 1001(a) of the Internal Revenue Service Restructuring and Reform Act of 1998 (RRA 98) requires the IRS Commissioner to ensure an independent Appeals function, including the prohibition of ex parte communications between Appeals personnel and other IRS employees, including Counsel, to the extent that such communications appear to compromise the independence of the Appeals personnel. The prohibition against ex parte communications between Appeals and other IRS employees does not apply to Fast Track Settlement or Fast Track Mediation because the Appeals mediators are not acting in their traditional Appeals settlement role. Revenue Procedure 2009-44 provides Appeals the discretion to communicate ex parte with other IRS employees in preparation for or during the post-Appeals mediation session. In contrast, ex parte communication rules are applicable in Appeals' consideration of an issue under Early Referral. See Revenue Procedure 2012-18 for rules on ex parte communications.

## MISSION

The mission of Appeals is to resolve tax controversies, without litigation, on a basis that is fair and impartial to both the Government and the taxpayer, and in a manner that will enhance voluntary compliance and public confidence in the integrity and efficiency of the Service. Today, alternative dispute resolution instead of litigation is widely valued and applied in many areas of our society. Customers expect more dispute resolution options, and Appeals has adapted its approach to keep up with the new methods and developments. This brochure has been developed to distinguish five dispute resolution options that are sometimes confused with one another.

## OTHER USEFUL RESOURCES

### Taxpayer Advocate Service

[www.irs.gov/advocate/index.html](http://www.irs.gov/advocate/index.html)

1-877-777-4778

### Low Income Taxpayer Clinics

[www.irs.gov/advocate/article/0,,id=106991,00.html](http://www.irs.gov/advocate/article/0,,id=106991,00.html)

TTY/TTD: 1-800-829-4059

### IRS Toll Free

1-800-829-1040

### Forms and Publications

1-800-829-3676



# Appeals



# Appeals

Introduction to Alternative Dispute Resolution

**Fast Track Mediation**  
**Fast Track Settlement**  
**Mediation**  
**Early Referral**  
**Arbitration**

## **FAST TRACK MEDIATION (FTM)**

Fast Track Mediation is designed to help Small Business/Self Employed (SB/SE) taxpayers resolve many disputes resulting from examinations (audits), offers in compromise, trust fund recovery penalties, and other collection actions while your case stays in SB/SE.

Appeals personnel trained in mediation help you and an IRS representative discuss the issues involved in your disagreement, and possible ways to resolve it. Our goal is to reach a jointly agreeable solution, consistent with relevant law, within forty days. The mediator will not require either party to accept a certain outcome.

You and the IRS representative must sign an agreement to mediate, Form 13369, for your case to be considered for mediation. You don't have to file a formal protest to request fast track mediation, but you must provide a written position with your request for mediation.

Most cases, which are not docketed in any court, qualify for fast track mediation.

Some of the excluded cases are:

- Issues with no legal precedent;
- Issues where the courts' decisions differ between jurisdictions;
- Campus and Automated Collection Service cases;
- Collection Appeals Program cases; and
- Those with only frivolous arguments

For mediation to succeed, all the decision-makers must be present. You may represent yourself at the mediation session, or you may officially appoint someone to represent you. You can bring anyone you choose to support your position. You may withdraw from the mediation process anytime. You retain all the usual appeal rights for any issues that do not get resolved through fast track mediation. For complete information, see Publication 3605 and Revenue Procedure 2003-41.

## **FAST TRACK SETTLEMENT (FTS)**

Fast Track Settlement is designed to help other IRS Operating Division taxpayers expeditiously resolve disputes during an examination while their case is still in Examination or Collection. Fast Track Settlement brings Appeals resources to a mutually agreed upon location to resolve the dispute before the 30-day letter is issued. A specially trained Appeals employee facilitates the discussion between you and the revenue agent and their team or group manager to reach and execute a settlement with which you both agree.

You may request Fast Track Settlement after Form 5701, Summary of Issues, Examination Re-Engineering Lead Sheets or other similar document has been issued and you have provided a written response. FTS may be available for factual and legal issues, including listed transactions, Compliance and Appeals Coordinated Issues, and issues that require consideration of the hazards of litigation.

Your benefits with Fast Track Settlement include:

- A one-page application, Form 14017 ;
- Consideration of the hazards of litigation;
- An answer within 120 days for Large Business and International (LB&I) cases and within 60 days for Small Business Self Employed (SB/SE) and Tax Exempt Government Entities (TE/GE) cases;
- No 'hot' interest under IRC 6621;
- An option to withdraw from the process at any time;
- Retention of all traditional appeal rights;
- Significantly shorter IRS experience;
- Only one tax computation;
- Your case closes agreed in the other Operation Division; and
- Immediate use of Delegation Order 236

Fast Track Settlement is available for certain LB&I, SB/SE and TE/GE taxpayers. The program is also available to other IRS Operating Division taxpayers on a case-by-case basis.

For complete information see:

- LB&I - Revenue Procedure 2003-40;
- SB/SE – Announcement 2011-5;
- TE/GE – Announcement 2008-105.

## **MEDIATION**

Mediation is available when a limited number of legal and factual issues remain unresolved after settlement discussions in Appeals. The mediator's role is to impartially facilitate discussion between the disputing parties to help them reach their own negotiated settlement. A trained Appeals mediator will be assigned to your case at no cost to you. You may also elect to use a non-IRS co-mediator at your own expense.

You may request mediation if you are already in the Appeals administrative process with any qualifying issues, and your case is not docketed in any court. It is available for both factual issues, such as valuation and transfer pricing issues, and legal issues. Qualifying issues include Compliance and Appeals Coordinated Issues. It is also available after unsuccessful attempts to enter into a closing agreement under Internal Revenue Code section 7121. There are no dollar limitations.

Some of the cases or issues excluded from mediation are:

- Collection issues except for those detailed in Announcement 2011-6, or subsequent guidance issued by the IRS;
- Those not consistent with sound tax administration;
- Frivolous arguments; and
- Those where you did not act in good faith during settlement negotiations.

Mediation is optional and does not create any special settlement authority for Appeals. You and the Appeals person you're working with may request mediation after consulting with each other. You initiate mediation by sending a written request to the appropriate Appeals Team Manager, with a copy to the appropriate Area Director and Chief of Appeals. For complete information, see Revenue Procedure 2009-44.

## **EARLY REFERRAL**

Taxpayers whose returns are under the jurisdiction of Examination or Collection may request the transfer of a developed but unagreed issue to Appeals, while the other issues in the case continue to be developed in Examination or Collection. The early resolution of a key issue may encourage taxpayers and the Service to agree on other issues in the case. Early referral can also be requested with respect to issues regarding an involuntary change in method of accounting, employment tax, employee plans and exempt organizations. Regular Appeals procedures apply, including taxpayer conferences. For complete information, see Revenue Procedure 99-28.