

- Issues for which a taxpayer requests the Simultaneous Appeals/Competent Authority procedure described in section 6 of Revenue Procedure 2015-40
- IIC Cases
- Issues that are part of a whipsaw transaction
- Issues identified in a Chief Counsel Notice or Advice, as excluded from the RAP process
- Issues for which mediation is not consistent with sound tax administration

RAP provides an opportunity for the taxpayer and Examination to resolve their disputes with an Appeals Officer who uses mediation skills and techniques to focus the issues and guide the taxpayer and Examination to self-determine the outcome of the dispute.

### Early Referral (ER)

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 IRS 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.

### Ex Parte Communications

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 2014-63 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 Appeals mission is to resolve Federal tax controversies without litigation on a basis which is fair and impartial to both the Government and the taxpayer, promotes a consistent application and interpretation of, and voluntary compliance with, the Federal tax laws, and enhances public confidence in the integrity and efficiency of the IRS.

### Other Useful Resources

Additional Information on Appeals Alternative Dispute Resolution Programs

<https://www.irs.gov/appeals/appeals-mediation-programs>

Taxpayer Advocate Service

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

1-877-777-4778

Low Income Taxpayer Clinics

[www.irs.gov/advocate/low-income-taxpayer-clinics/low-income-taxpayer-clinics](http://www.irs.gov/advocate/low-income-taxpayer-clinics/low-income-taxpayer-clinics)

TTY/TTD: 1-800-829-4059

IRS Toll Free: 1-800-829-1040

Forms and Publications: 1-800-829-3676

Taxpayer Bill of Rights (TBOR)

Visit IRS.gov and search for Publication 1

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 dispute resolution options that are sometimes confused with one another.



# Independent Office of Appeals



Introduction to Alternative Dispute Resolution

- Fast Track Mediation – Collection
- Fast Track Settlement
- Post Appeals Mediation
- Rapid Appeals Process
- Early Referral



[www.irs.gov](http://www.irs.gov)  
keyword=Appeals

## **Fast Track Mediation - Collection (FTMC)**

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FTMC is designed to help taxpayers resolve many disputes resulting from certain Offers in Compromise or Trust Fund Recovery Penalties.

Appeals personnel trained in mediation help you and an IRS Collection 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 has no settlement authority and cannot require either party to accept a certain outcome.

You and the IRS Collection representative must sign Form 13369, *Agreement to Mediate*, 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.

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 traditional appeal rights for any issues that do not get resolved through fast track mediation. For complete information, see Publication 3605 and Revenue Procedure 2016-57.

## **Fast Track Settlement (FTS)**

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Fast Track Settlement is designed to help other IRS Operating Division taxpayers expeditiously resolve disputes generally before the 30-Day Letter is issued during an Examination. Your case remains in the jurisdiction of Examination while a specially trained Appeals employee facilitates the discussion between you and the examiner and his/her group manager to reach and execute an agreed negotiated settlement. The Fast Track Settlement session is held at a mutually agreed upon location.

You may request Fast Track Settlement after Form 5701, *Notice of Proposed Adjustment*, Summary of Issues, Examination Lead Sheets or other similar document has been issued and you have provided a written response to the examiner. 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, *Application for Fast Track Settlement*
- 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 Operating Division
- Immediate use of Delegation Order 4-24

For complete information see:

- LB&I – Revenue Procedure 2003-40
- SB/SE – Revenue Procedure 2017-25
- TE/GE – Announcement 2012-34

## **Post Appeals Mediation (PAM)**

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Post Appeals 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 Post Appeals 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:

- Whipsaw Issues
- Collection cases except for certain Offer in Compromise (OIC) and Trust Fund Recovery Penalty (TFRP) cases as detailed in Revenue Procedure 2014-63
- Those not consistent with sound tax administration
- Frivolous arguments
- Those where you did not act in good faith during settlement negotiations
- Cases that were previously mediated through a different alternative dispute resolution within Appeals, such as Fast Track Settlement or Fast Track Mediation

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. For complete information, see Revenue Procedure 2014-63.

## **Rapid Appeals Process (RAP)**

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The Rapid Appeals Process is an elective process available for taxpayers who appealed:

- LB&I sourced cases, except International Individual Compliance (IIC) cases
- SB/SE Estate and Gift (E&G) cases

RAP takes place while the case is in Appeals' jurisdiction and is designed to be completed in one conference.

The Rapid Appeals Process is a tool used to improve the efficiency and timeliness of Appeals resolutions. If Appeals, the taxpayer and Examination all agree, the Appeals pre-conference becomes a working conference where Appeals utilizes mediation techniques to resolve unagreed issues. If the process is unsuccessful, the traditional Appeals process continues.

Some of the cases or issues excluded from RAP are:

- Constitutional issues
- Issues designated for litigation or docketed in any court
- Issues under consideration for designation for litigation