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MEMORANDUM FOR ALL EMPLOYEES OF THE IRS INDEPENDENT OFFICE OF APPEALS

FROM: Patrick E. McGuire /s/ *Patrick E. McGuire*
                  Acting Director, Case and Operations Support

SUBJECT: Updated Procedures for Technical Employees Considering
                  Docketed Cases

This memorandum issues guidance on revised procedures for IRS Independent Office of Appeals (Appeals) technical employees (ATEs) assigned to give settlement consideration to cases docketed before the U.S. Tax Court until the affected IRMs listed above are published. Please ensure that this information is distributed to all affected employees within your organization.

Background/Source(s) of Authority: After a case becomes "at issue in the Tax Court," Section 3 of Revenue Procedure 2016-22 generally provides that the IRS Office of Chief Counsel (Counsel) will refer such docketed cases, other than those that Appeals previously considered, to Appeals for settlement consideration. Once referred from Counsel for settlement consideration, Appeals has sole authority to settle the case until it is returned to Counsel. *See* Rev. Proc. 2016-22, § 3.05. Internal Revenue Manual (IRM) 1.2.2.9.8(2)a., Delegation Order 8-8 (Rev. 1) (formerly DO-66, Rev. 15), Authority of Appeals in Protested and Tax Court Cases, formally grants Appeals the authority to settle cases docketed before the Tax Court.

Procedural Change: As described more fully in the attachment, this memo changes certain procedures for ATEs considering docketed cases. These changes will increase efficiency, as well as improve communications between Appeals and Counsel and the overall taxpayer experience. The changes impact actions ATEs take upon being assigned a docketed case, actions ATEs take before making a settlement offer, and actions ATEs take to close settled docketed cases. Finally, this memo adds instructions for closing cases that the Tax Court conditionally dismisses. Please see the attachment for the specific changes made to the procedures.

Effect on Other Documents: This guidance will be incorporated into the affected IRMs listed above within two years from the date of this memo.

Effective Date: This guidance is effective as of the date of this memorandum.

Contact: Appeals employees should follow existing procedures to elevate questions through their management chain and follow established procedures on [How to Contact an Analyst](.).

Attachment:

Updated Guidance

cc: [www.irs.gov](.)

IRM 8.4.1.8
Preliminary Review of Assigned Docketed Case

New paragraph (2) is added as follows:

(2) After a petition is filed with the Tax Court, a transaction code (TC) 520 with action code 72 should post to the petitioner's account to indicate that the taxpayer is involved in litigation before the Tax Court. The ATE will check for the presence of this TC 520 when the case is initially received. If it is not present, the ATE will contact APS to have it posted.

Former paragraphs (2) through (4) are renumbered (3) through (5), respectively, without any changes to the text of those paragraphs.

New paragraphs (6), (7), and (8) are added as follows:

(6) If the ATE assigned to a docketed case requires the administrative case file for a related case that has not been transmitted with the administrative file for the docketed case, the ATE will:

    a. Research IDRS and any other available databases (e.g., ACDS, Issue Management System, Correspondence Examination Automation Support, etc.) to determine the location of the related case.
    b. Prepare and submit an electronic Case Update Request to establish an ACDS record for the related case and feature code *PL*. For reference returns, the Docket Number of the Tax Court case should be entered followed by an *N* (e.g., Tax Court Docket No. XXXX-24N).
    c. If the case is closed on the Integrated Data Retrieval System (IDRS), submit a request to the Shared Team of Administrative & Redaction Support (STARS) to order the Document Locator Number (DLN) from Files. If the paper file is received, the ATE will remove feature code *PL* from ACDS.

(7) Frequent and accurate communications between the ATE and the assigned docket attorney or paralegal in Counsel are essential when working docketed cases. To encourage those communications, an ATE assigned a docketed case will send a brief encrypted email message to the relevant docket attorney or paralegal after receiving the case to advise of their assignment to the case.

(8) If the ATE is unsure of the assigned attorney or paralegal in Counsel's office for any particular case, they will first check to see who signed the answer uploaded in ACDS. If the answer has not been uploaded in ACDS, the ATE will enter the docket number in the DAWSON system on the Tax Court's website, choose *Printable Docket Record*, and then search for the field titled *Respondent Counsel Contact*. If and only if the ATE cannot determine the assigned Counsel attorney from either of those two methods, the ATE will contact Team TL for assistance.

IRM 8.4.1.11
Settlement of Docketed Cases

New paragraphs (3) – (12) are added as follows:

(3) Before making a settlement offer on a docketed case, the ATE must check the Tax Court's docket-management system, DAWSON, to ensure that the case has not been dismissed or otherwise disposed.

(4) A docketed case is not considered *settled* until the ATE receives verbal or written confirmation from the petitioner or attorney of record (AOR) that they agree to the settlement terms and will sign a decision document (or will have received authority from the petitioner to sign a decision document) to resolve the case.

Reminder: No agreement is reached if the petitioner or AOR does not respond to the settlement offer or expresses indecision about it (e.g., "I need to think about it.").

(5) If a settlement is reached on a docketed case, the ATE will document the details of the settlement discussion in the corresponding Case Activity Record (CAR) in ACDS. As part of the details included in the CAR entry, and to eliminate confusion, the ATE must include the words "settlement reached; petitioner or AOR agrees to sign decision documents."

(6) If a docketed case is settled, the ATE will ask the petitioner or AOR if they will accept electronic delivery of settlement computations and decision documents. As part of that discussion, the ATE will discuss available IRS-approved options for transmitting documents electronically.

(7) The ATE will document the corresponding CAR with the method used to contact the petitioner or AOR, as well as the details of the discussion and their responses regarding electronic delivery of settlement computations and decision documents.

(8) Once a docketed case is settled, the ATE will order settlement computations (if necessary). See IRM 8.4.1.12, Settlement Computations on Docketed Cases.

(9) After receipt from the TCS, the ATE will review and approve the settlement computations. The ATE will also ensure that the settlement computations have been uploaded in ACDS.

(10) Using IRM 8.4.1.11.2 (for field ATEs) or IRM 8.4.2.7.1 (for campus ATEs), the ATE will determine if Appeals or Counsel is responsible for preparing the decision document.

(11) If Counsel is responsible for drafting the decision document, the ATE will contact Counsel for assistance through the Chief Counsel Portal unless the ATE and Counsel attorney or paralegal have previously agreed differently. In any case, the ATE will

provide the assigned Counsel employee with any information necessary to prepare the decision document. After the decision document is prepared, the assigned Counsel employee will provide it to the ATE. The ATE will then either ensure that the decision document was uploaded in ACDS by Counsel or will upload the decision document in ACDS themselves. The ATE will then proceed to IRM 8.4.1.16(3), Closing Docketed Cases, to determine the proper method to be used for closing the case.

(12) If Appeals is responsible for drafting the decision document for the case, the ATE will consult the Appeals Decision Document Guidebook (as necessary) and will use the ACDS decision document macro to prepare the decision document and upload it to ACDS. *See* IRM 8.4.1.11.2(2), Stipulation/Decision Preparation. The ATE will then proceed to IRM 8.4.1.16(3), Closing Docketed Cases, to determine the proper method to be used for closing the case.

IRM 8.4.1.11.2
Stipulation/Decision Preparation

The first sentence of paragraph (2) is restated as follows:

(2) Appeals will prepare simple settlement documents. For these decision documents, ATEs will use the decision document macro contained in APGolf in ACDS. Once generated by ACDS, the ATE will review the decision document to ensure it is accurate and properly formatted.

The last sentence of the note following paragraph (2) is restated as follows:

The ATE will prepare the signature block for the appropriate Counsel attorney by copying information from the signature block contained on the answer uploaded to ACDS *unless* the ATE has been advised by Counsel that the case has been reassigned. If the case was reassigned, the Counsel attorney should have provided the ATE with notice of the change, along with the attorney's signature block by email.

The first sentence of paragraph (3) is restated as follows:

(3) In complicated settlements, Appeals will ask Counsel to prepare the settlement documents.

A new paragraph (7) is created as follows:

(7) To assist Appeals with drafting decision documents for which Appeals is responsible, Counsel has prepared the Appeals Decision Document Guidebook. This comprehensive guidebook offers useful information and guidance about preparing decision documents in Appeals, including relevant formatting requirements. ATEs will review this guidebook and consult it whenever they have questions with respect to drafting, preparing, and formatting decision documents.

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Former paragraph (7) is renumbered as new paragraph (8) without any changes to its
text.

IRM 8.4.1.16
Closing Docketed Cases

Paragraph (2) is restated as follows:

(2) If Appeals cannot reach agreement with a petitioner or AOR to resolve a docketed
case, or if Appeals sends decision documents but does not receive executed decision
documents from the petitioner or AOR as instructed, the ATE will follow the instructions
in IRM 8.4.1.18, Docketed Case Not Settled by Appeals – Jurisdiction Released to
Counsel, to return the case to Counsel for trial preparation.

Paragraph (3) and its accompanying reminder, example, and caution paragraphs are
restated as follows:

(3) If Appeals reaches a settlement on a docketed case with a petitioner or AOR, the
closing method used by the ATE depends on two factors: whose responsibility it is to
prepare the decision documents (Appeals or Counsel), and whether the petitioner or
AOR has accepted electronic delivery of the decision documents. The following chart
directs ATEs to the appropriate closing method for each of the available combinations of
those two factors:

Party responsible for drafting decision document	Electronic delivery accepted	Electronic delivery declined
Appeals responsible for drafting decision document	Electronic Delivery Method (see IRM 8.4.1.16.1)	EZ Close (see IRM 8.4.1.16.3)
Counsel responsible for drafting decision document	Electronic Delivery Method (see IRM 8.4.1.16.1)	Letter 1220 Method (see IRM 8.4.1.16.2)

Caution: The closing method determined by the table above is **mandatory**. Thus, for
example, an ATE is *not* permitted to use EZ Close if the table above directs the ATE to
use the Letter 1220 Method for closing a specific case.

Paragraph (4) is restated as follows:

(4) The closing methods described in this IRM 8.4.1.16 and its subsections are not to be
used for closing cases subject to TEFRA or the Bipartisan Budget Act of 2015 (BBA).
Instead, see IRM 8.19.13, Docketed and Department of Justice Cases, and IRM
8.19.14, Bipartisan Budget Act of 2015 Procedures, for TEFRA and BBA cases,
respectively.

Paragraph (5) is deleted in its entirety.

IRM 8.4.1.16.1
Electronic Delivery Method

This section is retitled as shown above and restated in its entirety as follows:

(1) For cases in which the petitioner or AOR accepts electronic delivery, regardless of whether Appeals or Counsel is responsible for drafting the decision document, the ATE will use the Electronic Delivery Method to transmit the decision document and close the case.

(2) After the decision document has been prepared by Appeals or Counsel and uploaded in ACDS, the ATE will gather the settlement computations and decision documents and transmit them to the petitioner or AOR using the agreed-to, IRS-approved method for electronically transmitting documents.

(3) The ATE will await the return of the signed decision document from the petitioner or AOR.

(4) If a properly executed decision document is not received from the petitioner or AOR within 15 business days, the ATE will close the case unagreed for trial preparation. See IRM 8.4.1.16(2), Closing Docketed Cases, and IRM 8.4.1.18, Docketed Case Not Settled by Appeals – Jurisdiction Released to Counsel.

(5) Upon receipt of a properly executed decision document from the petitioner or AOR, the ATE will confirm that the decision document returned matches the decision document sent to the petitioner or AOR and will upload the original, unaltered file received from the petitioner or AOR in ACDS.

(6) The ATE will then prepare and upload the following documents in ACDS:

- The Appeals Case Memorandum (ACM);
- The Schedule of Adjustments (SOA);
- Form 5402, Appeals Transmittal and Case Memo, which advises the ATM on its face whether Appeals or Counsel prepared the decision document;
- A PDF file containing the CAR history of the ATE's actions on the case; and
- Any other documents needed to close the case (e.g., Form 3870, Request for Adjustment).

(7) The ATE will enter the AC-FR and submit the case, including any paper files, to the ATM for review.

(8) Upon receipt of the case, the ATM will take the following actions:

- Review the case, including the settlement recommended by the ATE;

- For cases with decision documents prepared by Appeals, review the decision document prepared by the ATE to ensure it: (a) reflects the approved terms of settlement; (b) addresses all years or issues, deficiencies, additions to tax, and penalties in the statutory notice(s) of deficiency or notice(s) of determination; and (c) is prepared in accordance with Tax Court Rule 23.
- Assuming the settlement terms are acceptable and accurately reflected on any Appeals-drafted decision document, sign the Form 5402, and reattach the signed Form 5402 to the CAR in ACDS. (If the case must be returned to the ATE for additional work or correction of errors, the ATM will remove the AC-FR, advise the ATE of the additional work required, and return the case to the ATE.)
- Enter the ACAP date.
- Route any paper files to APS.

New IRM 8.4.1.16.2 is added as follows:

IRM 8.4.1.16.2
Letter 1220 Method

(1) For cases in which electronic delivery was declined by the petitioner or AOR *and* for which Counsel is responsible for drafting the decision document, the ATE will use this Letter 1220 Method to transmit the decision documents for signing and close the case.

(2) After Counsel has provided the decision document to the ATE, the ATE will upload the decision document in ACDS (or ensure it has been uploaded in ACDS).

(3) The ATE will then prepare and upload either Letter 1220, Docketed Case Decision Document Transmittal – Deficiency, if the settlement results in a deficiency, or Letter 1220-A, Docketed Case Decision Document Transmittal - No Amount Due, if the settlement results in no amount due. The ATE will list any additional enclosures (e.g., settlement computations) that are included in the mailing to the petitioner or AOR and will ensure that those documents have been uploaded in ACDS.

(4) The ATE will prepare all listed enclosures, including the decision document in triplicate. If a mailing to an authorized representative is necessary, the ATE will also prepare Letter 937, Transmittal for Power of Attorney, and include a copy of the Letter 1220 or Letter 1220-A to the petitioner and **one** copy of each of its enclosures sent to the petitioner.

(5) The ATE will await the return of the signed decision document from the petitioner or AOR.

(6) If a properly executed decision document is not received from the petitioner or AOR within 15 business days, the ATE will close the case unagreed to Counsel for trial preparation. See IRM 8.4.1.16(2), Closing Docketed Cases, and IRM 8.4.1.18, Docketed Case Not Settled by Appeals – Jurisdiction Released to Counsel.

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(7) Upon receipt of a properly executed decision document from the petitioner or AOR, the ATE will confirm that the decision document returned matches the decision document sent to the petitioner or AOR. The ATE will then scan and upload the documents received from the petitioner or AOR in ACDS.

(8) Before submitting the case to the ATM, the ATE will prepare and upload the following documents in ACDS:

- The ACM;

- The SOA;

- A PDF file containing the CAR history of the ATE's actions on the case;

- Form 5402, which advises the ATM on its face that Counsel prepared the decision document; and

- Any other documents needed to close the case (e.g., Form 3870).

(9) The ATE will then enter the AC-FR and submit the case, including any paper files and the executed decision documents, to the ATM for review.

(10) Upon receipt of the case, the ATM will take the following actions:

- Review the case, including the settlement recommended by the ATE;

- Review the decision document prepared by Counsel to ensure it: (a) reflects the approved terms of settlement, (b) addresses all years or issues, deficiencies, additions to tax, and penalties in the statutory notice(s) of deficiency or notice(s) of determination; and (c) is prepared in accordance with Tax Court Rule 23.

- Assuming the settlement terms are acceptable, sign the Form 5402, and reattach the signed Form 5402 to the CAR in ACDS. (If the case must be returned to the ATE for additional work or correction of errors, the ATM will remove the AC-FR, advise the ATE of the additional work required, and return the case to the ATE.)

- Enter the ACAP date.

- Route the case (including but not limited to the executed decision documents) to APS so it can be transmitted to Counsel.

New IRM 8.4.1.16.3 is added as follows:

IRM 8.4.1.16.3
EZ Close

(1) For cases in which electronic delivery was declined by the petitioner or AOR *and* for which Appeals is responsible for drafting the decision document, the ATE will use this EZ Close method for closing the case.

(2) Even if a case would qualify to be closed via EZ Close based on paragraph (1), above, EZ Close *cannot* be used for any cases subject to TEFRA or BBA. Instead, see IRM 8.19.13, Docketed and Department of Justice Cases, and IRM 8.19.14, Bipartisan Budget Act of 2015 Procedures, for TEFRA and BBA cases, respectively.

(3) The ATE will prepare the decision document and review it for accuracy and format.

(4) In addition to preparing the decision document, the ATE will also prepare and upload to ACDS, or will ensure that the following documents have been uploaded to ACDS:

Document	Number of copies (see *Note* below)
Undated Letter 5534, Decision Transmittal	1 copy to each signatory (petitioner if *pro se*, or AOR) 1 copy to attach to Letter 937 to the power of attorney (POA) (if any) - Copies of all letters for the administrative file Note: Ensure that the final paragraph of Letter 5534 uses the phrase "within 30 days from the date of this letter" to properly advise the petitioner or AOR when Area Counsel will begin preparing the case for trial if properly executed decision documents are not returned.
Undated Letter 937, Transmittal for Power of Attorney (if needed)	For each POA: 1 copy to use as a cover letter to transmit a copy of the Letter 5534, decision document, and settlement computation (if any) 1 copy to retain in the administrative file

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Document	Number of copies (see *Note* below)

Decision document	• 3 copies to include with each Letter 5534 to a signatory
	   ○ 2 to return signed to Counsel
	   ○ 1 to retain for their records
	• 1 copy to include with each Letter 937 to a POA (if applicable)
	• 1 copy for the administrative file

Settlement computation	• 1 copy for each signatory to retain • 1 copy for each POA (if applicable) • 1 copy for the administrative file

Note: The *Number of copies* column, above, indicates the number of each document sent to the petitioner, authorized representative, or AOR.

(5) To indicate that the case is being closed by EZ Close, the ATE will input feature code *EZ*.

(6) Before submitting the case to the ATM for closure, the ATE will prepare and upload the following documents in ACDS:
- The ACM;
- The SOA;
- Form 5402, which advises the ATM on its face that Appeals prepared the decision document;
- A PDF file containing the CAR history of the ATE's actions on the case; and
- Any other documents needed to close the case (e.g., Form 3870).

(7) The ATE will enter the AC-FR and submit the case, including any paper files, to the ATM for review.

(8) Upon receipt of the case, the ATM will take the following actions:
- Review the case, including the settlement recommended by the ATE;
- Review the decision document prepared by the ATE to ensure it: (a) reflects the approved terms of settlement; (b) addresses all years or issues, deficiencies, additions to tax, and penalties in the statutory notice(s) of deficiency or notice(s) of determination; and (c) is prepared in accordance with Tax Court Rule 23.
- Assuming the settlement terms are acceptable and accurately reflected on the decision document, sign the Form 5402, and reattach the signed Form 5402 to the CAR in ACDS. (If the case must be returned to the ATE for additional work or

     correction of errors, the ATM will remove the AC-FR, advise the ATE of the
     additional work required, and return the case to the ATE.)

- Verify that feature code *EZ* has been entered on the case.

- Enter the ACAP date.

- Mail or arrange for the transmittal letters and enclosures (including but not limited to decision documents) to be mailed.

(9) When the ATM enters an ACAP date, a new record for STIPFF is generated in APS inventory. An APS PTM assigns each record for processing.

(10) Depending on the presence or absence of the following feature codes at closing, the ATE may have to take the corresponding action:

Presence or absence of certain feature codes	Meaning	Corresponding action to be taken by ATE
Neither feature code *EC* nor feature code *PL* is present on the case	This case has a paper administrative file	The ATE will send the paper file to APS for suspense until the decision is entered.
Both feature code *EC* and feature code *PL* are present on the case	This case has a paper administrative file	The ATE will retain the paper file until the case is fully closed by APS. All processing actions are taken using ACDS attachments. The ECC process should be followed.
Only feature code *PL* is present	This case is a paperless case	All processing actions will be taken using ACDS attachments.

     Note: See IRM 8.20.7.2.4, Electronic Case Closures (ECC), for more information.

New IRM 8.4.1.16.3.1 is added as follows:

IRM 8.4.1.16.3.1
Decision Documents Sent via EZ Close and Returned to Counsel

(1) Under EZ Close, Counsel will receive executed decision documents directly from the petitioner or AOR.

(2) Upon receipt of a decision document, Counsel will review it for accuracy and to ensure that no alterations were made by the petitioner or AOR.

(3) If the decision document has no errors or alterations, Counsel will countersign the decision and file it with the Tax Court.

(4) If the decision document returned to Counsel contains an error (or errors) that prevent Counsel from filing it with the Tax Court (e.g., a misspelled name), the docket attorney or paralegal will send an encrypted email to the ATE and ATM, along with a carbon copy to Team TL, advising the ATE and ATM that the decision document cannot be filed and detailing the error(s) that prevent it from being filed.

(5) Within seven business days of receiving the email from Counsel detailing the error(s) in the decision document, the ATE will take the following actions:

> (a) contact the petitioner or AOR and advise them of the error(s) in the previously executed decision document, which will require transmission of a corrected decision document and re-execution;

> (b) prepare a new Letter 5534 to the petitioner or AOR and corrected decision document and upload both documents to ACDS;

> (c) mail the new Letter 5534 to the petitioner or AOR that transmits the corrected decision document in triplicate; and

> (d) send an encrypted email to the docket attorney or paralegal, which advises them of the date the corrected decision document was re-sent to the petitioner or AOR and transmits a copy of the corrected decision document.

(6) If the decision document returned to Counsel contains alterations that indicate the petitioner or AOR no longer agrees with the settlement terms, Counsel will keep the case and place it in trial preparation status.

New IRM 8.4.1.16.3.2 is added as follows:

IRM 8.4.1.16.3.2
Decision Documents Sent via EZ Close and Not Returned to Counsel

(1) If Counsel does not receive signed decision documents from the petitioner or AOR within 21 calendar days of the date of the letter transmitting the decision documents, the docket attorney or paralegal will contact the petitioner or AOR to obtain the signed decision document.

(2) If Counsel reaches the petitioner or AOR and they state that they no longer agree with the settlement terms, Counsel will keep the case and place it in trial preparation status.

(3) If Counsel cannot reach the petitioner or AOR and the decision document is not returned to Counsel within 30 calendar days of the date of the letter transmitting the decision documents, Counsel will keep the case and place it in trial preparation status.

(4) If the petitioner or AOR states they did not reach an agreement with Appeals to resolve the dispute, Counsel will review the CAR uploaded by the ATE in ACDS.

(5) If the CAR contains all elements that confirm that an agreement was, in fact, reached (i.e., a conference-held entry *and* a statement that "settlement reached; petitioner/AOR agrees to sign decision documents") and, if appropriate, the petitioner or AOR confirms the accuracy of the statements regarding the settlement being reached contained in the CAR, Counsel will keep the case and place it in trial preparation status.

(6) If the CAR does not contain all the elements that confirm a settlement was reached and agreed to, or if the petitioner or AOR does not agree with the accuracy of the statements regarding a conference being held and an agreement being reached, the docket attorney or paralegal's Associate Area Counsel (AAC) will contact the Senior Operations Advisor (SOA) of the Appeals employee who made such representations in the CAR. The AAC will notify Team TL by email, and the AAC and SOA will discuss transferring jurisdiction of the case back to Appeals.

(7) If the case is to be returned to Appeals' jurisdiction, the ATM, ATE, AAC, and docket attorney or paralegal will make arrangements for the case to be returned to Appeals for additional work.

(8) If agreement between the AAC and SOA cannot be reached, Counsel and Appeals may elevate the issue to their respective executives to discuss the case, including whether the taxpayer or AOR and Appeals had a settlement conference and reached a settlement in the case.

(9) For any cases which Appeals closed agreed via EZ Close but which are now changed to trial preparation status, Counsel will alert Appeals via the Appeals Shared Programs Hub, Electronic Case Receipts/Support Work Requests/APS – Case Update Requests SharePoint site that the case should be returned to Counsel for trial preparation. If requested by APS, the assigned ATE will promptly return to Counsel any paper administrative files they are holding for the case (and any related cases).

IRM 8.4.1.18
Docketed Case Not Settled by Appeals – Jurisdiction Released to Counsel

This section is restated in its entirety as follows:

(1) When Appeals cannot reach agreement with the petitioner or AOR, or if the petitioner or AOR does not return properly executed decision documents to the ATE as instructed, the ATE will close the case to Counsel for trial preparation.

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(2) If the determination is made while speaking with the petitioner or AOR that a settlement cannot be reached, the ATE will ask if they may transmit closing Letter 971, Letter Advising No Settlement Reached – Docketed Case, via an IRS-approved electronic delivery method. As part of that discussion, the ATE will discuss available IRS-approved options for transmitting the closing letter electronically.

(3) If applicable, the ATE will document the corresponding CAR with the details of the discussion with the petitioner or AOR, as well as the details of the discussion and their responses regarding electronic delivery of the closing letter.

(4) The ATE will prepare the final drafts of, and upload in ACDS, the following items:
- The ACM;
- The SOA;
- Form 5402;
- A PDF file containing the CAR history of the ATE's actions on the case;
- Letter 971, Letter Advising No Settlement Reached – Docketed Case; and
- Any other documents needed to close the case (e.g., Form 3870).

(5) The ATE will enter the AC-FR in the CAR and notify the ATM via secured email: (i) that the case is ready to close for trial preparation, and (ii) if the ATE is holding a paper administrative file for the case. The ATE will also enter feature codes *EC* and *PL*.

(6) The ATM will review the materials uploaded in ACDS and either enter the ACAP and sign the closing Letter 971 or return the case to the ATE for further work. (If the ATM returns the case to the ATE for further consideration, the ATM will remove the AC-FR.)

(7) The ATM will review the case for feature codes *EC* and *PL* and will enter them if they are missing. ACDS will then automatically notify APS that the case has been closed by the ATE for trial preparation. After entering the ACAP, the ATM will email the ATE to notify them that the case is closed.

(8) After receiving notice from the ATM that the ACAP has been entered, the ATE will then take the following actions as soon as possible:

a. If the petitioner or AOR has accepted electronic delivery of the closing letter, date the ATM-signed Letter 971 and send it to the petitioner or AOR via the agreed-to, IRS-approved electronic delivery method.

b. If the petitioner or AOR has not accepted electronic delivery of the closing letter, print the ATM-signed Letter 971, date it, and send it via U.S. Mail to the petitioner or AOR.

c. If the ATE is holding a paper administrative file for the case, ship the file

directly to the assigned Counsel attorney identified in the answer in ACDS at the address identified in the answer *unless* the ATE has been advised by Counsel that the case has been reassigned. For reassigned cases, ship the paper administrative file to the office address of the newly assigned docket attorney or paralegal. (If the case was reassigned, the Counsel attorney should have provided the ATE with notice of the change.)

New IRM 8.4.1.21.1.1 is added as follows:

IRM 8.4.1.21.1.1
Conditional Dismissals

(1) The Tax Court has recently changed how it dismisses *some* cases, particularly those for which the filing fee has not been paid by the petitioner.

(2) For these cases, the court has begun issuing orders that dismiss the case but allow it to be reinstated, in the judge's discretion, if the petitioner takes certain actions by a certain date (e.g., pays the filing fee within 30 days of dismissal).

(3) ATEs may learn of dismissals by reviewing their inventory listings for action code *ORDENT*, by receiving contacts from the assigned Counsel attorney or paralegal, or by conducting docket research on the Tax Court's website.

(4) Upon learning of the entry of a dismissal order on an assigned case, the ATE will review the relevant docket record on the Tax Court's website to try to obtain a copy of the dismissal order. If the ATE cannot obtain a copy of the dismissal order from the Tax Court's website, they will send an encrypted email to the assigned docket attorney or paralegal requesting a copy of the dismissal order.

(5) Upon receiving a copy of the dismissal order, the ATE will review it to determine if the case is dismissed conditionally or with finality. If the ATE has any questions about the status of the dismissal, they will contact the assigned docket attorney or paralegal.

(6) For cases that have been dismissed with finality, the ATE will close the case to APS as soon as possible.

(7) For cases that have only been conditionally dismissed by the court, the ATE will hold the case for 45 days from the date the dismissal order was entered by the judge. At the expiration of that 45-day period, the ATE will conduct docket research to determine if the case has been reinstated by the court.

   a. If the case has been reinstated by the court, the ATE will request APS to remove the *ORDENT* action code, and the ATE will update the statute back to *DOCKT* and remove the statute date. The ATE will then continue to work the case to resolution.

      b. If the case has not been reinstated by the court, the ATE will close it to APS for assessment. See IRM 8.4.1.21.1, Dismissed for Lack of Jurisdiction, and IRM 8.4.1.21.3, Dismissed for Lack of Jurisdiction for Assessment of Less than the Notice of Deficiency Amount.

(8) The ATM will enter the ACAP date, but will not select *STIPFF* or *Trial Prep* as the APS action and will instead select APS Reason Code *Closing*. If the *ORDENT/DECENT* action code is on ACDS, the ATM will also not enter a *SHIPPED* action as prompted.

IRM 8.4.2.7
Agreed Cases

This section is restated in its entirety as follows:

(1) For purposes of settling and closing docketed cases in which Appeals is charged with mailing decision documents, see IRM 8.4.1.11, Settlement of Docketed Cases.

IRM 8.4.2.7.1
Stipulation/Decision Preparation

Paragraph (1) is restated as follows:

(1) The Campus Appeals offices prepare simple settlement documents using the format approved by Counsel. For these decision documents, the ATE will use the decision document macro contained in the Appeals Generator of Letters and Forms (APGolf) in ACDS. Once generated by ACDS, the ATE will review the decision document to ensure it is accurate and properly formatted. In complicated settlements, Appeals will ask Counsel to prepare the settlement documents.

The last sentence of the note following paragraph (2) is restated as follows:

The ATE will prepare the signature block for the appropriate Counsel attorney by copying information from the signature block contained on the answer uploaded to ACDS *unless* the ATE has been advised by Counsel that the case has been reassigned. If the case was reassigned, the Counsel attorney should have provided the ATE with notice of the change, along with the attorney's signature block by email.

IRM 8.4.2.7.2
Basis for Settlement Reached but No Signed Decision Document Received

Paragraph (1) is restated as follows:

(1) For any case not closed using the procedures in IRM 8.4.1.16.3, EZ Close, if Appeals sends or transmits a decision document to a petitioner or AOR but does not receive it as instructed, the case will be closed unagreed for trial preparation.

Attachment AP-08-0224-0003, Updated Procedures for Technical Employees
Considering Docketed Cases

A new paragraph (2) is created as follows:

(2) For cases closed under IRM 8.4.1.16.3, EZ Close, see IRM 8.4.1.16.3.2, Decision
Documents Sent via EZ Close and Not Returned to Counsel, for actions Counsel will
take to retrieve the missing decision document, as well as how they will handle
assertions from the petitioner or AOR that no settlement with Appeals was reached.

Former paragraph (2) is renumbered to paragraph (3) with no changes to its text.

Former paragraph (3) is renumbered to paragraph (4) with no changes to its text.