



# MANUAL TRANSMITTAL

Department of the Treasury  
Internal Revenue Service

8.19.2

MAY 8, 2025

## EFFECTIVE DATE

(05-08-2025)

## PURPOSE

- (1) This transmits revised text for IRM 8.19.2, *Managers/TEFRA Resources*.

## MATERIAL CHANGES

- (1) Added new IRM section, Program Scope and Objectives, and its related subsections to comply with the Deputy Commissioner of Services and Enforcement and Operations Support memo, dated September 14, 2016, entitled Heightened Awareness, Sensitivity and Understanding of Internal Controls.
- (2) Added Taxpayer Bill of Rights (TBOR) content 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) to the Related Resources section of the Internal Controls.
- (3) Added the following statement to the Related Resources section of the Internal Controls: "In accordance with IRM 25.30.2.3, Statement of Commitment, Appeals will work collaboratively with the Taxpayer Advocate Service (TAS) to enhance the taxpayer experience. For more information, see IRM 25.30.2, Service Level Agreement between the IRS Independent Office of Appeals and the Taxpayer Advocate Service."

## EFFECT ON OTHER DOCUMENTS

IRM 8.19.2 dated April 19, 2016 is superseded. Incorporated Interim Guidance Memorandum AP-08-0714-004, *Implementation of the Appeals Judicial Approach and Culture (AJAC) Project, Examination and General Matters - Phase 2 changes*, which was issued July 2, 2014, and AP-08-0415-0002, *Mandatory Appeals TEFRA Team (ATT) Referrals*, which was issued April 7, 2015, into this IRM

## AUDIENCE

All IRS Independent Office of Appeals employees working with TEFRA partnership returns and TEFRA partners.

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Director, Specialized Examination Programs and Referrals



8.19.2

Managers/TEFRA Resources

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8.19.2.1  
(05-08-2025)  
**Program Scope and Objectives**

- (1) Purpose: This IRM section describes guidance for managers and resources for working TEFRA Key and Partner Cases in the IRS Independent Office of Appeals (Appeals).
- (2) Audience: Appeals Technical Employees and Appeals Team Managers that work TEFRA cases.
- (3) Policy Owner: Appeals Technical Guidance is under the Director, Specialized Examination Programs and Referrals.
- (4) Program Owner: Appeals Technical Guidance is the program office responsible for providing technical and Procedural Guidance to Appeals employees for TEFRA issues.
- (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.

8.19.2.1.1  
(05-08-2025)  
**Background**

- (1) The Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) was enacted for partnership-level audit procedures under IRC 6221 through 6234. Under the TEFRA unified proceeding, all administrative and judicial proceedings to determine the correct treatment of partnership items were conducted at the partnership level. TEFRA was in effect for 35 years, until its repeal and replacement by the Bipartisan Budget Act (BBA) of 2015 partnership audit regime which applies to all partnership returns beginning after December 31, 2017.

8.19.2.1.2  
(05-08-2025)  
**Authority**

- (1) TEFRA was codified under pre-2018 IRC 6221 through 6234 and provides authority for this IRM.
- (2) Section 1101 of the Bipartisan Budget Act (BBA) of 2015 repealed TEFRA partnership and Electing Large Partnership (ELP) provisions for tax years beginning after December 31, 2017, and replaced it with a new centralized partnership audit regime. The new regime provides for determination, assessment and collection of underpayments at the partnership level unless certain elections are made by the partnership.

8.19.2.1.3  
(05-08-2025)  
**Responsibilities**

- (1) The author of this IRM is shown on the Product Catalog Page as the originator.

8.19.2.1.4  
(05-08-2025)  
**Program Reports**

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

8.19.2.1.5  
(05-08-2025)  
**Terms and Acronyms**

- (1) See IRM 8.1.1-1, Common Terms Used in Appeals, for common terms and definitions used in IRM Part 8. Terms listed in this exhibit are not included in this section.

8.19.2.1.6  
(05-08-2025)

**Related Resources**

- (1) 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>.
- (2) In accordance with IRM 25.30.2.3, Statement of Commitment, Appeals will work collaboratively with the Taxpayer Advocate Service (TAS) to enhance the taxpayer experience. For more information, see IRM 25.30.2, Service Level Agreement between the IRS Independent Office of Appeals and the Taxpayer Advocate Service.

8.19.2.2  
(10-01-2013)

**Purpose**

- (1) This section provides guidelines for managers and resources for TEFRA cases.
    - a. Use this section of the Handbook to clarify the responsibilities of managers and TEFRA resource persons.
    - b. Be alert to problems that may have national implications and bring them to the attention of the Appeals Technical Specialist(s) for TEFRA.
  - (2) The Appeals TEFRA Team (ATT) and TEFRA Technical Specialists serve as the resource persons for managers and all other Appeals employees. They should know and understand the responsibilities for all TEFRA duties within the Appeals office, including the procedures in this section relating only to the manager.
  - (3) The guidelines in this Handbook are specifically for pass-thru entity cases and especially for TEFRA cases. They supplement the general information in other parts of the Appeals IRM.
- Caution:** Users are cautioned to seek guidance from the Appeals Technical Specialist(s) for TEFRA if questions of authority arise.
- (4) The list of TEFRA resource persons is found on the *Appeals TEFRA website*.
  - (5) All guidance in this section concerning the Campus TEFRA Functions (CTFs) is for cases controlled on the Partnership Control System (PCS). The CTFs only work with key cases and partners controlled on the PCS.

8.19.2.3  
(10-01-2013)

**Jurisdiction of TEFRA Cases**

- (1) TEFRA cases are worked at the key case level. The Appeals office has jurisdiction over settlement of the partnership issues and the penalties and affected items.
- (2) The partner returns which are not Coordinated Industry Case (CIC) corporations, Joint Committee or corporate specialty cases will remain in the Campus TEFRA Function (CTF). The CTF is responsible for statute control, processing settlements and notices, and making assessments for the PCS-linked partner cases which are not Coordinated Industry Case (CIC) corporations, Joint Committee or corporate specialty cases. The CTF will generally handle questions about computations for PCS linked partner cases which are not Coordinated Industry Case (CIC) corporations, Joint Committee or corporate specialty cases.

- (3) CIC corporation partner cases will be suspended and controlled in the area/territory where the returns were examined unless Appeals has jurisdiction of the return.
  - a. The tax computations and assessments are the responsibility of the partner's area/territory or the Appeals office, whichever has jurisdiction of the CIC partner case.
- (4) Joint Committee cases and other corporate specialty partner cases will be handled in the same manner as the CIC corporation partner cases. Other corporate specialty cases are the following:
  - a. Forms 1120 with letters after the 1120 other than A, S, or X (e.g., 1120-L for Life Insurance companies)
  - b. Cases with an activity code of 219 or higher.

8.19.2.4  
(10-01-2013)  
**Penalty and Affected  
Item Issues**

- (1) Penalties and affected item issues should generally be considered with the key case. Under the key case concept, the focus at the key Appeals office should be the partnership issues and related penalties and affected items.

**Caution:** Prior to the Taxpayer Relief Act of 1997, penalties related to a TEFRA entity were considered at the partner level. Penalties were imposed in a separate deficiency proceeding after the completion of the unified entity proceeding. The Taxpayer Relief Act of 1997 provides that the applicability of any penalty that relates to an adjustment to a partnership item will be determined in the partnership level proceeding. Whether or not penalties are applicable will be determined in the partnership level proceeding for partnership tax years ending after August 5, 1997 (see IRM 8.19.11.3).

- (2) Affected items may be considered after the partnership adjustments conclude. The TEFRA program cannot be effectively administered unless affected items are considered when the key case is evaluated. In addition, partners should be given an opportunity to settle affected item issues as early as possible. The appeals officer (AO) must evaluate affected item issues at the partnership level and attempt to resolve them at that time.
- (3) If affected item issues are unagreed when the partnership administrative proceeding concludes, and a partner protests or petitions the affected item issues, Appeals will consider each partner case separately. This eliminates the benefits of a unified proceeding. While some partners will require a separate determination at the partner level, the key AO should always evaluate the overall merits of the affected item issues at the partnership level. Also see IRM 8.19.2.10.3, Settlement of Penalty and Affected Item Issues.
- (4) For partnership tax years ending after August 5, 1997, if the penalty is unagreed when the partnership administrative proceeding concludes, Appeals will issue a Notice of Final Partnership Administrative Adjustment (FPAA) to address the penalty at the partnership level. Also see IRM 8.19.2.11.3, Settlement of Penalty and Affected Item Issues.
  - a. Partners who wish to contest penalties on the basis of partnership level defenses must contest penalties as a part of the partnership proceeding.

- b. Partners who wish to contest penalties on the basis of partner level defenses, such as good faith and reasonable cause, must contest the penalties by filing a refund claim after the penalties are assessed. See IRC 6230(c)(4).

- (5) When an AO evaluating penalty issues on a key case (e.g., overvaluation) becomes aware that a related IRC 6700 penalty for promoting an abusive tax shelter was asserted, the AO should contact the examiner to advise of the proposed key case penalty settlement, particularly if the proposal is a full concession by the Government.

8.19.2.5  
(10-01-2013)  
**Appeals TEFRA Team  
(ATT) and Appeals Team  
Manager (ATM) Duties**

- (1) The duties of the ATM and ATT will overlap at times and may require some coordination.

8.19.2.5.1  
(04-19-2016)  
**Appeals TEFRA Team  
(ATT)**

- (1) Appeals employees must follow the work request procedures to request ATT assistance. Use of the ATT is mandatory for agreement package, closing package, and FPAA preparation. Follow the work request procedures in IRM 8.19.1.1.1, *Appeals TEFRA Team (ATT)*. Also see detailed procedures for using the ATT on their *ATT SharePoint site*. A link to the site is found on the *Appeals TEFRA website*.

8.19.2.5.2  
(10-01-2013)  
**Appeals Team Manager  
(ATM)**

- (1) These are the duties and responsibilities of an ATM:
  - a. Identify and resolve TEFRA problems.
  - b. If a TEFRA key case is in local APS for assignment and bypassed Laguna Niguel APS and the ATT, then forward the case to Laguna Niguel APS.
  - c. Assign the appropriate grade to the key case.
  - d. Assign new TEFRA workunits to the appropriate AO.
  - e. Understand the statute, the IRM on TEFRA cases (both key cases and partner returns), and the ATT role in TEFRA cases.
  - f. Review cases for technical and procedural accuracy.
  - g. Ensure TEFRA settlements meet the guidelines for settling cases.
  - h. Execute settlement agreement forms.
  - i. Sign FPAA letters.

**Note:** The responsibility for some of these duties can overlap into the ATT duties. The responsibility for executing agreement forms remains with the ATM. The ATM will sign FPAA letters when the ATT is not used. When the ATT is used, the ATM of the ATT will sign the FPAA letters.

8.19.2.6  
(10-01-2013)  
**Case Assignment**

- (1) Review work units prior to assignment to ensure the case is assigned to the appropriate AO. Because of the procedural difficulties and length of time required to close a TEFRA case, exercise care when assigning TEFRA cases.

8.19.2.6.1  
(10-01-2013)  
**Uniform  
Acknowledgement Letter**

- (1) An acknowledgement letter will be sent to the TMP and partners who have filed protests or petitions. The ATM or his/her designee will generate and issue the acknowledgment letter. The acknowledgment letter procedures in IRM 8.2.1.7 apply to these cases.



8.19.2.7  
(10-01-2013)  
**Assigning Dollar Value  
to Key Case**

- (1) Although TEFRA cases have adjustments, not deficiencies, these cases make up a large part of the Appeals inventory and typically involve large dollar amounts.
- (2) Since the partner cases are not available to the Appeals office, the formula shown in IRM Exhibit 8.19.10–1 is used to compute the estimated TEFRA “deficiency.” The formula is also used to compute the estimated revised dollars at closing. However, at closing use line 2, Form 4605-A, prepared by Appeals for line 1 of the formula. Use the highest individual tax rate for joint filers as shown in IRM Exhibit 8.19.10–1 for both proposed and revised dollars regardless of who the specific investors may be.
- (3) When the case is initially assigned to the ATT, the TEFRA AO will compute the estimated proposed deficiency and validate it on ACDS. If the case is not initially assigned to the ATT (it went to local APS without going through Laguna Niguel APS) then the field AO assigned to the case must compute the estimated deficiency and validate ACDS.
- (4) When the case is closed, the field AO should compute the revised deficiency and enter it on Form 5402. The TEFRA AO will verify it and instruct APS to update it, if needed. Revised dollars are entered on ACDS only when the TEFRA key case is closed.

8.19.2.8  
(10-01-2013)  
**Case Grading**

- (1) The ATM will need to determine the correct grade of each case using the case grading guidelines in IRM 1.4.28.8 and IRM Exhibit 1.4.28-1, IRM 1.4.28-2, and IRM 1.4.28-3 . Generally, grade the cases based upon the complexity of the issues.
- (2) Since the key case will include the estimated proposed tax deficiency for all investors, ACDS will automatically record the case at a grade 13 or 14. The ATM must then determine the correct grade and promptly advise APS.

8.19.2.9  
(04-19-2016)  
**Statute of Limitations for  
TEFRA Cases**

- (1) The statute of limitations must be protected for both key cases and partner cases.
- (2) For a complete discussion on the statutory period of limitation, see IRM 8.19.1.6.6 and IRM 8.21.6.

8.19.2.9.1  
(04-19-2016)  
**Key Case**

- (1) The statute of limitations for assessment is generally three years from the unextended due date of the partnership return or the date filed, whichever is later.
- (2) This statute may be extended by mutual agreement. However, Chief Counsel’s office does not recommend allowing a representative to sign any legally significant documents (consents) on behalf of the TMP. It is therefore recommended that all consents be signed by the TMP unless the requirements of Treas. Reg. 301.6229(b)-1 are met for a non-TMP authorized by the partnership. See IRM 8.19.1.6.6.8.1.2, *When a non-TMP Executes Consents*.
- (3) Copies of consents secured from either a TEFRA partnership or a partner in a TEFRA key case should be sent to both the Ogden and Brookhaven CTFs. Instructions for sending consents to the CTFs are found on the Appeals TEFRA website.

**Note:** A TEFRA key case should not be accepted in Appeals unless there are **at least** 365 (or at least 180 for cases being returned from Compliance after their consideration of a new issue or new information) days remaining on the statute.

8.19.2.9.2  
(04-19-2016)  
**Partner Case**

- (1) The statute on the partner's return is controlled by the statute on the TEFRA partnership until the partnership items are resolved. At that time, the partner statute becomes the one-year assessment period provided by IRC 6229(d) or IRC 6229(f).
- (2) For a discussion of ACDS guidelines for CIC corporation, Joint Committee, or other corporate specialty partner cases, see IRM 8.19.6.4 and IRM 8.20.
- (3) Copies of TEFRA partner consents extending a TEFRA statute should be sent to both CTFs by the AO. See IRM 8.19.2.9.1.

**Note:** A TEFRA partner case should not be accepted in Appeals unless there are **at least** 365 (or at least 180 for cases being returned from Compliance after their consideration of a new issue or new information) days remaining on all one-year statute dates (one-year assessment dates) for the partner if the investor is a CIC corporation, a Joint Committee case or an other corporate specialty case. Compliance is responsible for computing and assessing the tax from all TEFRA linkages which have a live one-year statute date before the case reaches Appeals for CIC corporation, Joint Committee and corporate specialty cases. The ATM has discretion whether to accept a partner case with a live one-year statute date or to return the case to Compliance for computation and assessment of the live one-year statute date before returning the case to Appeals for consideration of the non-TEFRA issues. See IRM 8.19.6.2 for an explanation of other corporate specialty cases.

8.19.2.10  
(10-01-2012)  
**Procedural Review**

- (1) Review all cases to identify systemic or procedural problems that need to be considered for corrective action. Make corrections timely at the local level if possible.
- (2) Timely apprise the area office and/or Appeals Technical Specialist(s) for TEFRA of the facts and circumstances when the situation requires their involvement.

8.19.2.10.1  
(10-01-2013)  
**Review of Settlements**

- (1) The manager must review and approve all settlements before they are mailed directly to the partners or to the CTF for subsequent mailing to the partners. This is especially important because of the consistent agreement provisions of the unified proceedings. If just one partner agreement is erroneously executed, the Service may be bound to the same settlement for all unagreed partners.
- (2) CTF processing is an integral part of any partnership settlement. Therefore, the manager should ensure that processing instructions to the CTF are complete and accurate and that the CTF has the capability to process the settlement.

8.19.2.11  
(10-01-2013)  
**Settlement Methods**

- (1) Due to the unique statutory requirements of TEFRA, consider certain problem areas when settling partnership cases.

- a. Confidential information unique to one partner must not be disclosed to another partner or to the TMP.
- b. Particular care is required when penalty or affected item issues are being considered.

8.19.2.11.1  
(10-01-2013)  
**Cash Out-of-Pocket  
Settlements**

- (1) Cash out-of-pocket settlements based on a partner's cash investment are generally not compatible with the concept of a unified proceeding because of the verification problem. A settlement agreement based on cash would require the verification of the specific dollar amount of cash paid by every partner.
- (2) If a partner's cash contribution percentage does not equal his/her profit and loss percentage, a cash out-of-pocket settlement may create consistency problems.
- (3) Avoid this problem by offering all partners their pro-rata share of a specific dollar amount for settlement purposes.

8.19.2.11.2  
(10-01-2013)  
**Allocation Agreements**

- (1) Consider settlements regarding the correct allocation of distributions only if all partners agree to the allocation. The allocation of key case level items of all partners must be fully disclosed on the schedule of adjustments included with all partners' agreement forms.

**Note:** Disclose a partners' partner-level item adjustments only to the specific partner.

- (2) This is a whipsaw issue requiring agreement by all parties. If the reallocation has an effect on basis, reflect the corrected basis amounts on the Form 886-Z (TEFRA Partners' Shares of Income) sent to the CTF for computations.
- (3) Refer to IRM 8.19.10.4.8.4, for more information on allocation issues and IRM Exhibit 8.19.11-3 and IRM Exhibit 8.19.11-4 for samples of the schedule of adjustments for allocation issues.

8.19.2.11.3  
(10-01-2013)  
**Penalty and Affected  
Item Issues**

- (1) Partner level elements of penalties and affected item issues should be considered with the partnership case.
- (2) The AO should review the examiner's affected item report and determine a recommended settlement position on the partner level elements of penalties or affected items based upon the activities at the partnership level. This will include the overvaluation of assets.
- (3) The AO should prepare an abbreviated affected item appeals case memo (ACM) for the recommended settlement position. A copy of the abbreviated affected item ACM will be included with the closing package to the key case CTF. See Exhibit 8.19.10-3 for a sample affected item ACM.
- (4) Generally, any additional facts which are based on activities at the partner level will only be considered in evaluating a partner's individual case after the partnership proceeding has been completed (but see (5) below):
  - a. For partnership tax years ending after August 5, 1997, penalties are determined at the partnership level. Any penalties determined will be assessed and the partner must file a refund claim after the penalties are

assessed and paid, at which time additional facts unique to that partner (including partner reasonable cause and good faith defenses to a penalty) may be presented.

- b. For affected items, the partner will receive a notice of deficiency or affected item report at which time additional facts unique to that partner may be presented.
- (5) For partnership tax years ending after August 5, 1997, if the number of partners is relatively small (generally five or fewer), the AO may consider *partner level defenses* to a penalty as part of the consideration of the partnership case. If a settlement is reached, Form 870-LT(AD) will be used. On the Schedule of Adjustments page of the Form 870-LT(AD), partnership level penalties (including percentages) will be shown in Part I and partner level defenses to these penalties (including percentages) will be shown in Part II. See example of a Form 870-LT(AD) Schedule of Adjustments page in Exhibit 8.19.1–5.

**Example:** If a partnership level accuracy penalty is determined to be 20%, it will be shown in Part I. If after considering a partner level defense to the penalty it is determined that the penalty will be reduced to 10% due to reasonable cause, it will be shown in Part II.

**Caution:** It is very important that any reduction of a partnership level penalty after considering a partner level defense be shown in Part II. Partner level defenses are not partnership items and are therefore not subject to a request for consistent settlement. If a partner level penalty is shown in Part I, it would be subject to a request for consistent settlement by any other partners (including those that did not establish reasonable cause, such as a promoter).

- (6) For partnership tax years ending after August 5, 1997, if the penalty is unagreed when the partnership proceeding concludes, Appeals will issue a Notice of Final Partnership Administrative Adjustment (FPAA) to address the penalty at the partnership level.
  - a. Partners who wish to contest penalties on the basis of partnership level defenses must contest them as a part of the partnership proceeding.
  - b. Partners who wish to contest penalties on the basis of partner level defenses, such as good faith and reasonable cause, must contest the penalties by filing a refund claim after the penalties are assessed and paid. See IRC 6230(c)(4).
- (7) In evaluating penalty issues on a partnership case (e.g., overvaluation), should you become aware that an IRC 6700 penalty for promoting an abusive tax shelter was asserted, contact the examiner to advise of the proposed partnership case penalty settlement, particularly if the proposal is a full concession by the Government

8.19.2.11.4  
(10-01-2013)  
**Use of Closing  
Agreements**

- (1) Avoid closing agreements in settlements on TEFRA key cases whenever possible. On the date they are executed by the Service these agreements convert partnership items to nonpartnership items for any future years that are settled, triggering a one-year assessment period under IRC 6229(f) for those years, unless it is a partial agreement. See IRC 6229(f)(2).

- (2) In the event that closing agreements are determined to be necessary on a given case, consider the following provisions:
- a. A closing agreement for a TEFRA partnership is made under the authority of IRC 6224(c) and IRC 7121. Both sections should be cited in the initial paragraph of the closing agreement as follows:  
“Under sections 6224(c) and 7121 of the Internal Revenue Code [Taxpayer’s name, address and taxpayer identification number] (the taxpayer(s)) and the Commissioner of Internal Revenue make the following closing agreement:”
  - b. The closing agreement should identify both the partner and the partnership by name, address, and taxpayer identification number.
  - c. For all cases – Include waiver language allowing any tax resulting from the changed treatment of the partnership item to be assessed. See Form 870-PT(AD) for an example of this language.
  - d. For all cases including affected items – Include waiver language which allows any amount resulting from any change to affected items to be assessed. See Form 870-LT(AD) for an example of this language. The Taxpayer Relief Act of 1997 changed the procedure for assessing penalties for partnership tax years ending after August 5, 1997. The waiver language in Forms 870-PT(AD) and 870-LT(AD) reflect the new law.
  - e. For closing agreements that finalize **all** partnership level adjustments – Include language to clarify that the minimum one-year assessment period under IRC 6229(f) will not begin to run until the closing agreement is executed for the Commissioner. The following language may be used.

“This agreement will not become effective or final until this agreement form is returned to the Commissioner of Internal Revenue and is signed on his or her behalf. The minimum one year extension of the period of limitations on assessment under Internal Revenue Code Section 6229(f) will not begin to run until the date the Commissioner’s representative signs this form on the Commissioner’s behalf.”

- f. For closing agreements that **do not include all** partnership level adjustments, (a partial agreement) – Include the following language to show it is a partial agreement:

“This partial agreement becomes effective upon execution by the Commissioner of Internal Revenue or his delegate. It does not settle all of the partnership items. The remaining unsettled partnership items as well as any unsettled penalty, addition to tax, or additional amount that relates to an adjustment to a partnership item will remain subject to determination under the partnership-level administrative and judicial procedures. The period of limitations for assessing any tax attributable to the settled items shall be determined as if such agreement had not been entered into. To the extent this paragraph conflicts with any other paragraph in this agreement, this paragraph controls.”

**Note:** Penalties are not “partnership items.”

**Caution:** If a closing agreement refers to the reporting of any item in a subsequent year, use a partial agreement format as shown in item “f” (above). Refer any closing agreement that has terms affecting subsequent years to associate area counsel for review.

**Note:** If the issues in a partial agreement become complex or involve extraordinarily large amounts, consider using a closing agreement.

A closing agreement with terms affecting subsequent years is an effective settlement agreement pursuant to IRC 6231(b)(1)(C) which removes that partner and those partnership items immediately from the TEFRA partnership provisions, even before the future year commences at least as to the settled items.

- (3) Refer to IRM 8.13.1.2.6 for more information when using closing agreements in TEFRA cases.

8.19.2.12  
(10-01-2013)  
**Processing  
Considerations**

- (1) The unified partnership proceedings involve logistics problems in securing and processing settlement agreements for every partner. Even in those situations where the TMP may bind non-notice partners or where a pass-thru partner may bind indirect partners, every partner's return must be controlled by the Campus TEFRA Function in order to make the computational adjustments so that assessments or refunds can be made. This is a cumbersome and time-consuming procedure, particularly where the key case has partnerships as investors.
- (2) While the only criteria on which a settlement may be based are the facts, law, and hazards of litigation, the settlement should be structured to simplify its application to the partners' returns to the extent possible.
- (3) Settlements that require follow-up action in future years may inadvertently prejudice an examination of the subsequent years. To avoid this situation, the AO should determine whether the later affected years are currently under examination. If so, the AO should discuss the settlement of the current years with the examiner.
- (4) If the later years are not under examination, the AO should secure copies of the returns for the affected years and ascertain that the settlement will not prejudice an examination of subsequent years. The AO should also notify Compliance of any follow-up action required as a result of the settlement by using Form 5402.
- (5) For tax years ending after July 22, 1998, interest is suspended for a timely filed individual return if the Service fails to provide notice of the liability and the reason for the liability within a 36-month period (18 months effective for tax years where the 18-month period ended on or before November 25, 2007) beginning with the due date of the return (without extensions) or the filing date of the return, whichever is later. See IRC 6404(g). The interest suspension period ends 21 days after notice of the liability is given. For TEFRA partnerships, notice is deemed given to all partners when notice is given to the TMP. The earliest of the following provide IRC 6404(g) notice if the reason for the liability is given:
  - a. Form 5701
  - b. Summary Report
  - c. 60-day Letter
  - d. Appeals Settlement Letter
  - e. FPAA

**Note:** Even though notice of the liability is not given to the partner, the partner can compute the liability from the adjustments to the partnership in each of the notices named above.



**Note:** The AO will note on the Form 5402 for the TEFRA key case the date of the IRC 6404(g) notice and the form of the notice (Form 5701, summary report, 60-day letter, Appeals Settlement Letter or FPAA).

**Caution:** The AO will note on the Form 5402 in remarks that IRC 6404(g) applies and refer APS to the IRC 6404(g) worksheet attached. See IRM 8.19.6.11 for the information needed for the IRC 6404(g) worksheet. If multiple TEFRA partnership linkages will be assessed on a timely filed individual taxpayer with tax year ending after July 22, 1998, an IRC 6404(g) worksheet must be included for each partnership.

- (6) For partnership tax years beginning after August 5, 1997, in the case of a partner's settlement under IRC 6224(c), interest is suspended under IRC 6601(c) starting 30 days after the settlement agreement is executed by the Commissioner's delegate and ending with notice and demand. In the case of a CIC corporation, Joint Committee or other corporate specialty case, when the taxpayer enters into a TEFRA settlement, the AO assigned the partner return will secure a computation and assessment of the deficiency as quickly as possible in order to minimize the loss of interest. If the appeals team case leader or ATM deems it necessary to extend the one-year statute date to avoid the expense of time consuming computations while the investor case is in Appeals for non-TEFRA consideration, the AO will encourage an advance payment of tax. See IRM 8.19.6.11.

8.19.2.13  
(10-01-2013)  
**Settlement Agreement  
Forms**

- (1) Appeals developed agreement forms to use for the settlement of TEFRA partnership cases. In addition, Compliance uses separate agreement forms that do not use the term "settlement." Refer to IRM 8.19.1.6.10 for a listing of forms to be used by Appeals, LB&I and SB/SE.
- (2) Settlement letters have also been developed.
- a. Letter 3394 - Transmittal Letter for Form 870-LT(AD) for nondocketed TEFRA partnership cases
  - b. Letter 3395 - Transmittal Letter for Form 870-PT(AD) for nondocketed TEFRA partnership cases
  - c. Letter 2606 - Transmittal Letter for Form 870-PT(AD) for docketed TEFRA partnership cases
  - d. Letter 2607 - Transmittal Letter for Form 870-LT(AD) for docketed TEFRA partnership cases
- (3) Forward the agreement forms to the notice partners using one of two methods:
- a. The campus may mail the agreement forms using the Partnership Control System (PCS).
  - b. The Appeals office may mail the agreement forms directly.
- (4) See IRM 8.19.11.8 and IRM 8.19.11.4 for a discussion on the recommended option depending upon the circumstances. If using method (3)b), above, be aware that the mailing addresses shown in the case file may not be current. Therefore, the AO should verify them with the TMP before an Appeals office directly mails the agreements.

**Caution:** Do not disclose to the TMP addresses of partners, spouse's names or if the partner filed a joint return. Check with your local Disclosure Officer for specific problems.

8.19.2.14  
(10-01-2013)  
**Settlement Authority**

- (1) Delegation Order No. 4-19 authorizes appropriate officials to sign notices such as FPAA's and settlement agreements. This authority for executing settlement agreements has been extended to AOs in the CTFs but not as to their respective cases. Appeals settlement agreements may be executed by Revenue Agents GS-12 and above in the CTFs.
- (2) The full authority within Appeals to sign FPAA's and settlement agreements as well as to designate a TMP has been delegated to ATMs, and to appeals team case leaders as to their respective cases.
- (3) Refer to Delegation Order Number 4-19, IRM 1.2.43.17, for settlement authority for your case.

8.19.2.15  
(10-01-2013)  
**Campus TEFRA  
Function (CTF)  
Capabilities and  
Coordination**

- (1) The CTFs have the ability to mail computer generated NBAPs, 60-day letters, and FPAA's to the notice partners using the PCS. They also can generate settlement letters for mailing to all partners who have not already settled.
- (2) In large project cases, advise the CTFs as early as possible of the support required to process the settlement. Coordination between the CTFs may also be necessary in order to establish specific procedures for a particular project. In order to minimize procedural problems, Appeals offices should always avoid complex settlements that may be difficult to administer.

8.19.2.16  
(10-01-2013)  
**Accepting Agreements**

- (1) When accepted for the Commissioner, the agreement forms discussed in IRM 8.19.1.6.10 represent final settlements; therefore, exercise extreme care when executing the agreement forms.
- (2) Compare the schedule of adjustments with the office copy to ensure that the amounts are correct.
- (3) If the settlement is contingent upon all partners accepting it, do not execute any agreements until they are all received.
- (4) If the TMP agrees to bind all non-notice partners, the statement found in IRM 8.19.11.2 must be shown on the agreement form.
- (5) A pass-thru partner's agreement binds all indirect partners unless the indirect partner is identified as provided in IRC 6223(c)(3). See IRC 6224(c)(1). No additional statement is needed on the agreement form for the pass-thru partner to bind the indirect partners.

8.19.2.16.1  
(10-01-2013)  
**Sending Agreements to  
the Campus TEFRA  
Function (CTF)**

- (1) CTFs are responsible for statute protection for partner returns except for CIC corporations, Joint Committee, and other corporate specialty partners. Therefore, Appeals offices must carefully adhere to the established procedures for sending agreement forms to the CTFs.
- (2) If the signed agreements are received in an Appeals office, batch them every 30 days and give to the ATM/appeals team case leader for execution. Execute the forms within 5 workdays and send to the key case CTF within 5 workdays after execution. All mailing should be done by controlled correspondence.
- (3) If the CTF receives the signed agreements, they may be executed by Revenue Agents GS-12 and above in the CTF, or Appeals personnel in accordance with Delegation Order 4-19.



**Note:** Due to short time constraints imposed by the Tax Court in Tax Court Rule 248(c), use care in coordinating docketed cases with the CTFs. Consider having the settlement agreements executed only in the Appeals office.

- (4) At the CTF, the ATM, AOs, or revenue agents GS-12 and above in the CTF will take the following action:
  - a. Compare the schedule of adjustments with the file copy in the administrative file. Check to ensure that the amounts are unaltered.
  - b. If the file is marked "docketed case", contact the key case AO to verify if the agreements should be executed.
  - c. Verify that the appropriate signatures are included---if a joint return was filed, both spouses should sign to ensure that the partnership items of both spouses convert. If only one spouse agrees, then the unagreed spouse may or may not still be a party to the TEFRA proceeding, depending on whether that spouse is deemed to own a separate interest. The campus will assess the agreeing spouse through nonmaster file and continue controls on the unagreed spouse who owns a separate interest.
  - d. If Form 870-LT(AD) is used and taxpayers agree to both partnership and penalty or affected item adjustments, ensure that both waiver paragraphs are executed.
  - e. After executing, the CTF will make the appropriate distribution and enter the one-year statute date on PCS.

8.19.2.16.2  
(10-01-2013)  
**Distributing Copies of  
Agreements**

- (1) Retain a copy of the signed agreement form in the Appeals key case administrative file.
- (2) Mail the original agreement form and one copy to the CTF as shown in IRM 8.19.2.15.1.
- (3) The CTF will mail a copy of the agreement to the partner and/or an authorized power of attorney. The CTF mails the agreement to the partner and/or an authorized power of attorney whether the settlement agreement is executed at the CTF or the Appeals office for PCS linked partners.

**Caution:** See IRM 8.19.2.16 below for the specific requirements for a power of attorney from a TEFRA partnership partner.

8.19.2.16.3  
(10-01-2013)  
**Notifying TMP of  
Settlement**

- (1) The key case CTF will notify the TMP of settlement agreements for both non-docketed and docketed key cases regardless of whether the settlement agreement is executed in the CTF or the Appeals office. However, the CTF will not provide the Tax Court Rule 248(c) notification. If a key case is not linked on PCS, the Appeals office is responsible for notifying the TMP of all settlement agreements.
- (2) For docketed key cases which require Rule 248(c) notification, Appeals and associate area counsel will prepare and mail the Rule 248(c) notification, depending on local procedures. See IRM 8.19.13.2.11 for TMP notification requirements under Tax Court Rule 248(c) with respect to docketed cases.
- (3) In the rare instance when Appeals must notify the TMP of a settlement not requiring Rule 248(c) notification (such as for cases not controlled on PCS) follow these guidelines:

- a. Do not give the TMP copies of executed settlement agreements since it may be a disclosure problem to provide the TMP with the new address of an investor, the name of the investor's spouse, or whether the investor filed a joint return, without a court order.
- b. Provide the TMP a list of the names of the agreed partners and a copy of the schedule of adjustments.
- c. If the settlement agreement is a Form 870-LT(AD), notify the TMP by providing a list of the names of the agreed partners and a copy of the schedule of adjustments. Do not disclose if the partner settled the penalty or affected item adjustments. Do not give the TMP a copy of the Form 870-LT(AD) because of the potential disclosure problem.
- d. If the AO is responsible for notifying the TMP of a settlement, which is not a Rule 248(c) notification, then the AO is also responsible for mailing the specific partner a copy of his own executed settlement agreement.

8.19.2.17  
(10-01-2013)  
**Power of Attorney**

- (1) Treas. Reg. 301.6223(c)-1(e) sets out specific requirements for a power of attorney from a TEFRA partnership partner. Section 2 of Form 2848 (The Power of Attorney and Declaration of Representative) must state the name and address of the authorized representative to handle partnership items and Form 1065. The following is the authorization language that can be used under section 3 of Form 2848:
  - For TEFRA partnership with an individual as the TMP, the authorization should specifically refer to "*TEFRA Partnership Proceedings*" and tax form number "*1065*" and relevant tax years or periods. In addition, the taxpayer can add "*Income, including TEFRA Partnership Items*" and tax form number "*1040*" and relevant tax years or periods on a separate line of section 3 of Form 2848 if the taxpayer is authorizing the representative to bind the taxpayer personally, not through the TEFRA proceeding.
  - For a TEFRA partnership and an individual partner other than the TMP, the authorization should specifically refer to "*Income, including TEFRA Partnership Items*" and tax form numbers "*1040 and 1065*" and relevant tax years or periods.
  - For a TEFRA partnership with a corporation as the TMP, the authorization should specifically refer to "*TEFRA Partnership Proceedings*" and tax form number "*1065*" and relevant tax years or periods.
  - For a TEFRA partnership with a corporate partner other than the TMP, the authorization should specifically refer to "*Income, including TEFRA Partnership Items*" and tax form numbers "*1120 and 1065*" and relevant tax years or periods.
- (2) If the "TEFRA partnership items" and "1065" are not included on the power of attorney, the representative may not be authorized to discuss partnership items, penalties, and affected item issues. See IRM 8.19.1.6.5.2, IRM 8.19.10.4.3.4, and IRM 8.19.6.7 for more information on powers of attorney.

8.19.2.18  
(10-01-2013)  
**Office Files**

- (1) Effective May 1, 2012, APS will no longer create and maintain office files.
- (2) After a case has been closed in Appeals and if information is needed from the administrative file, the AO must request the file by completing the ACDS Update Request Form in APGolf. The completed form should be sent to the following mailbox for processing: \*AP-TS-APS Closed Case Doc Request.