



MANUAL TRANSMITTAL

Department of the Treasury
Internal Revenue Service

8.26.2

JUNE 23, 2017

EFFECTIVE DATE

(06-23-2017)

PURPOSE

- (1) This transmits revised IRM 8.26.2, *Alternative Dispute Resolution (ADR) Program, Fast Track Settlement for Small Business/Self Employed (SB/SE) Taxpayers*.

MATERIAL CHANGES

- (1) This IRM contains the following material changes:

IRM	Brief Description
8.26.2	Editorial, grammatical, formatting changes were made throughout this reorganized IRM
8.26.2.1	Added and updated Program Scope and Objectives and its related subsections to comply with the Deputy Commissioners of Services and Enforcement and Operations Support memo dated September 14, 2016, entitled Heightened Awareness, Sensitivity, and Understanding of Internal Controls
8.26.2.2	Updated the <i>General Provisions</i> of the process
8.26.2.3	Updated <i>Settlement Authority</i> to add reference to Delegation Order 8-9
8.26.2.6	Updated the definition of <i>Excluded Cases</i>
8.26.2.6.4	Removed the APS carding procedures, which are contained in IRM 8.20.5
8.26.2.9	Emphasized the procedural requirements in cases settled using Appeals delegated settlement authority
8.26.2.10	Clarified in <i>Appeals' Settlements</i> that the FTS Official should utilize his/her authority under Delegation Order 8-9 when needed to effect an agreement between SB/SE, the taxpayer and the FTS Official that is based on the hazards of litigation
8.26.2.14	Clarified <i>Confidentiality in FTS</i> within FTS
8.26.2.13	Added in <i>Unresolved Issues</i> that post-appeals mediation (PAM) is not available for any issue considered during the FTS process if the parties fail to resolve the issue or if either party withdraws after the start of the process
8.26.2.16	Added in <i>Closing Procedures - FTS Official</i> that the FTS Official must send the FTS Package to the ATM for an ACAPDATE, and that an ATM's signature is not required on Form 5402
8.26.2.16	Removed the requirement in <i>Customer Satisfaction Survey</i> to complete and secure Customer Satisfaction surveys

EFFECT ON OTHER DOCUMENTS

This IRM supersedes IRM 8.26.2 dated September 27, 2012.

AUDIENCE

Appeals

Anita M. Hill
Director, Case and Operations Support

8.26.2

Fast Track Settlement for Small Business/Self Employed (SB/SE) Taxpayers

Table of Contents

8.26.2.1	Program Scope and Objectives
8.26.2.1.1	Background
8.26.2.1.2	Authority
8.26.2.1.3	Responsibilities
8.26.2.1.4	Program Reports
8.26.2.1.5	Terms and Acronyms
8.26.2.1.6	Related Resources
8.26.2.2	General Provisions
8.26.2.3	Settlement Authority
8.26.2.4	Collaborative Process
8.26.2.5	Eligibility
8.26.2.6	Excluded Cases
8.26.2.7	Initiating the FTS Process
8.26.2.7.1	SB/SE's Role in Determining Eligibility
8.26.2.8	Receipt of Incoming Cases
8.26.2.8.1	Determining Acceptance
8.26.2.8.2	Accepting the case
8.26.2.8.3	Cases That Do Not Qualify or are Denied
8.26.2.9	FTS Session
8.26.2.9.1	Conducting the Session
8.26.2.9.2	New Information
8.26.2.9.3	Withdrawal
8.26.2.9.4	SB/SE's Role in the Process
8.26.2.10	Appeals' Settlements
8.26.2.11	Form 14000 Fast Track Session Report
8.26.2.12	Coordinated Issues
8.26.2.13	Unresolved Issues
8.26.2.14	Confidentiality in FTS
8.26.2.15	Ex Parte Rules
8.26.2.16	Closing Procedures
8.26.2.16.1	FTS Official
8.26.2.16.2	Account and Processing Support (APS)
8.26.2.16.3	SB/SE FTS Closing Package

8.26.2.1 (06-23-2017) **Program Scope and Objectives**

- (1) A primary objective of the Internal Revenue Service (IRS) is to resolve tax controversies at the lowest level without sacrificing the quality and integrity of those determinations. Alternative Dispute Resolution (ADR) programs achieve this objective. Small Business Self Employed (SB/SE) Fast Track Settlement (FTS) is one such ADR process.
- (2) The goals and process time frames in SB/SE FTS provide taxpayers more timely resolution of their tax dispute.
- (3) FTS takes place while the case is in SB/SE's jurisdiction.
- (4) The entire process is estimated to be completed within a **goal of 60 calendar days** beginning from the date the Form 14017, *Application for Fast Track Settlement* is accepted by the Office of Appeals (Appeals) to the date the case is closed on Appeals Centralized Database System (ACDS).
- (5) FTS benefits the taxpayer and the Service because it:
 - resolves issues at the earliest stage possible
 - makes use of Appeals' settlement authority during the Exam process
 - reduces overall case cycle time
 - reduces taxpayer burden
 - reduces resource needs for the Service

8.26.2.1.1 (06-23-2017) **Background**

- (1) The IRS Restructuring and Reform Act of 1998 (RRA 98), P.L.105-206, directed the IRS to implement procedures to allow a broader use of early referral and ADR programs.
- (2) Rev. Proc. 2003-40, 2003-1 C.B. 1044, implemented a fast track settlement program for taxpayers in the Large and Mid-Sized Business Division (now the Large Business and International Division). Announcement 2006-61, 2006-36 IRB 390, relied on the provisions of Rev. Proc. 2003-40 and established SB/SE FTS as a two year pilot program to expedite case resolution and expand the range of dispute resolution options available to SB/SE taxpayers.

8.26.2.1.2 (06-23-2017) **Authority**

- (1) Announcement 2006-61, 2006-36 IRB 390 piloted the program and Announcement 2011-5, 2011-4, IRB 430, extended the pilot. News Release 2013-88 expanded SB/SE FTS nationwide and Rev. Proc. 2017-25, 2017-14 I.R.B. 1, formally establishes the program.

8.26.2.1.3 (06-23-2017) **Responsibilities**

- (1) Appeals Policy and SB/SE Policy jointly administer the SB/SE FTS program. The executives with program oversight are:
 - Appeals - Director Case and Operations Support
 - SB/SE - Director Examination Headquarters

8.26.2.1.4 (06-23-2017) **Program Reports**

- (1) Using Appeals Centralized Database System (ACDS) data, Appeals compiles and disseminates monthly reports on ADR initiatives. These reports include a full year performance and year-to-date comparisons of closures, receipts, and average days to settle and close, etc. for each ADR initiative. The reports also contain data for the total life of each Initiative, as well as, key program information.

8.26 Alternative Dispute Resolution (ADR) Program

- (2) Appeals shares the monthly reports with its leadership and key Appeals stakeholders.
- (3) Appeals holds ADR stakeholder meetings to report on ADR program data and activities.

8.26.2.1.5
(06-23-2017)

Terms and Acronyms

- (1) This table lists commonly used terms and acronyms:

Term	Acronym
Alternative Dispute Resolution	ADR
Fast Track Settlement	FTS
FTS Appeals Official	FTS Official
Other Common Appeals Acronyms	See IRM 8.1.1-1

8.26.2.1.6
(06-23-2017)

Related Resources

- (1) Additional FTS program information can be found:
 - Pub 5022 - *Fast Track Settlement - A Process for Prompt Resolution of Small Business Self Employed Tax Issues*
 - Appeals *SB/SE Fast Track Settlement* website located at http://appeals.web.irs.gov/tech_services/adr/fasttrack-sbse.htm

8.26.2.2
(06-23-2017)

General Provisions

- (1) FTS is an ADR service offered by the IRS for the purpose of enabling SB/SE Field and Specialty Examination functions, taxpayers, and Appeals to work together to resolve disputed issues while the case is in SB/SE's jurisdiction.
- (2) FTS may apply when SB/SE and the taxpayer have exhausted existing issue resolution strategies within SB/SE, including the Group Manager's (GM) conference, and now want to use mediation to reach resolution.
- (3) An Appeals Officer trained in mediation techniques serves as the mediator, or FTS Appeals Official (FTS Official). The FTS Official will first use mediation techniques to facilitate settlement discussion between SB/SE and the taxpayer. If resolution is not reached through mediation, the FTS Official may propose a settlement, but such proposal is not imposed on either party.
- (4) FTS allows the parties to utilize Appeals' settlement authority under Delegation Order 8-9 when needed to effect an agreement between SB/SE, the taxpayer and the FTS Official that is based on the hazards of litigation. See IRM 1.2.47, *Service-wide Policies and Authorities, Delegation of Authorities for the Appeals Process*, and IRM 8.6.4, *Conference and Settlement Practices - Reaching Settlement and Securing an Appeals Agreement Form*.
- (5) If a resolution is not reached using FTS, a taxpayer retains the right to request traditional Appeals consideration. Post-appeals mediation, however, is not available for any issue considered during the FTS process if the parties fail to resolve the issue or if either party withdraws after the start of the process. See Rev. Proc. 2014-63, 2014-53, I.R.B. 1014 and Rev. Proc. 2017-25, 2017-14 I.R.B. 1.

8.26.2.3
(06-23-2017)
Settlement Authority

- (1) Delegation Order 8-9 (IRM 1.2.47) contains the IRS Commissioner's delegation of settlement authority to Grade 14, 13 and 12 Appeals Officers assigned to be FTS Officials for SB/SE FTS cases.
- (2) This delegation of settlement authority includes the responsibility of the FTS Official to arrive at the final disposition from the Government's perspective, approving the final settlement in accordance with the delegated authority, and executing the appropriate closing documents. This authority may not be re-delegated.

8.26.2.4
(06-23-2017)
Collaborative Process

- (1) The FTS session includes the taxpayer and the SB/SE representatives with decision making authority and the information and expertise necessary to assist the parties and the FTS Official during the negotiation process. All participants actively contribute to the resolution of the case.
- (2) The FTS Official has delegated settlement authority and the ability to offer a settlement in both factual and legal issues in the event the parties cannot reach settlement through the use of mediation techniques. Neither party is obligated to accept the settlement proposal offered by the mediator.

8.26.2.5
(06-23-2017)
Eligibility

- (1) FTS is generally available for non-docketed SB/SE cases with no regard to dollar amount. The case must have:
 - Factual and legal issues
 - Some basis in fact and or law for the conclusions reached
 - Necessary referrals, technical advice, Counsel Advice and valuation reports
 - No significant unresolved factual differences between SB/SE and the taxpayer's position
 - Issues for which SB/SE and the taxpayer have exhausted available issue resolution strategies including the Group Manager's conference, and now want to use mediation to reach resolution
- (2) If an issue is determined not to be eligible for SB/SE FTS, all issues in the case are not eligible for SB/SE FTS.

8.26.2.6
(06-23-2017)
Excluded Cases

- (1) FTS is not available for:
 - a. Cases in which SB/SE FTS is not appropriate under either 5 U.S.C. § 572 or 5 U.S.C. § 575, which provide the general authority and guidelines for use of alternative dispute resolution in the administrative process;
 - b. Cases in which the taxpayer did not act in good faith during the audit process, such as, but not limited to, cases in which the taxpayer failed to cooperate or unduly delayed the audit process;
 - c. Correspondence examination cases worked solely in a Campus/Service Center site;
 - d. Partnership cases under the Tax Equity & Fiscal Responsibility Act (TEFRA);
 - e. Collection cases: Collection Due Process, Collection Appeals Program, Offer-In-Compromise, and Trust Fund Recovery Penalty;
 - f. Issues designated for litigation;
 - g. Issues docketed in any court;

8.26 Alternative Dispute Resolution (ADR) Program

- h. Issues precluded from settlement by previous closing agreements, res judicata, or controlling Supreme Court precedent;
- i. Issues for which SB/SE FTS would not be in the interest of sound tax administration. For example, issues common to issues in litigation for which it is important that the IRS maintain a consistent position, or issues common to issues in litigation over which the Department of Justice has jurisdiction;
- j. Frivolous issues, such as, but not limited to, those identified in section 4.04 of Rev. Proc. 2017-2, 2017-1 I.R.B. 106, or the corresponding provision of any successor guidance;
- k. "Whipsaw" issues, or issues for which resolution with respect to one party might result in inconsistent treatment in the absence of participation of another party. Examples include, but are not limited to, issues on a joint return where both spouses do not agree to participate in the same FTS Session, or where one spouse is claiming innocent spouse treatment under Internal Revenue Code (IRC) §6015;
- l. Issues for which the taxpayer has submitted a request for competent authority assistance. See section 6.03 of Rev. Proc. 2015-40, 2015-35 I.R.B. 236, or the corresponding provision of any successor guidance, which describes the procedures of the U.S. competent authority for coordination with IRS examination proceedings. Under section 6.03(3) of Rev. Proc. 2015-40, the taxpayer's access to U.S. competent authority assistance is generally not affected by the taxpayer's pursuit of alternative dispute resolution programs under the jurisdiction of IRS Examination, including SB/SE FTS.

Taxpayers are cautioned that if resolution of the taxpayer's competent authority issue (as defined in Rev. Proc. 2015-40) is reached through the SB/SE FTS process, the taxpayer's access to U.S. competent authority assistance will be determined in accordance with sections 6.03(1) and 6.03(2) of Rev. Proc. 2015-40. If a taxpayer enters into a closing agreement (including settlement through the SB/SE FTS process) and then requests competent authority assistance, the U.S. competent authority will endeavor only to obtain a correlative adjustment from the treaty country and will not take any actions that would otherwise change the settlement. See section 6.03(2) of Rev. Proc. 2015-40. If a taxpayer enters into SB/SE FTS, the taxpayer generally may not request competent authority assistance until the SB/SE FTS process is complete. However, the taxpayer may file a protective claim with the competent authority in the form of a competent authority request or a letter while SB/SE FTS is pending if a protective claim is necessary to keep open the period of limitations in a foreign country. See section 11.03 of Rev. Proc. 2015-40. If these requirements have been satisfied and a protective claim has been filed, the taxpayer must notify the U.S. competent authority that the case is in alternative dispute resolution in SB/SE FTS. In addition, the taxpayer must notify the FTS Appeals Official that a protective claim has been filed and that the provisions have been satisfied. The U.S. competent authority will suspend action on the case until SB/SE FTS is complete;

- m. Issues outside SB/SE jurisdiction; or
 - n. Issues that have been otherwise identified in subsequent guidance issued by the IRS as excluded from the SB/SE FTS process.
- (2) If any one issue is determined not to be eligible for SB/SE FTS, all issues in the case shall not be eligible for SB/SE FTS.

8.26.2.7 (06-23-2017) Initiating the FTS Process

- (3) The Appeals Team Manager (ATM) and the GM may agree to consider issues or cases otherwise not eligible for FTS depending on individual circumstances and the operational needs of the case.

- (1) Either the taxpayer or SB/SE can initiate FTS; however, both parties must agree to the process.
- (2) Ideally, FTS is initiated on fully developed eligible cases:
 - a. Field Exam cases: generally prior to the 30-day letter
 - b. Office Audit/Exam cases: at the time the taxpayer requests an Appeals conference

In either instance, the FTS case is referred as soon as possible, but **always** prior to the issuance of a 90-day letter.

- (3) An issue cannot be fully developed prior to the receipt of all necessary referrals, technical advice, Counsel advice, valuation reports, or other relevant documentation.
- (4) If the case meets the eligibility requirements in Sec. 8.26.2.5, the examiner and/or the GM will discuss FTS with the taxpayer, explain the roles and responsibilities of each party, and the expectations and benefits of the program.
- (5) SB/SE and the taxpayer will jointly complete Form 14017, *Application for Fast Track Settlement*.
- (6) The Form 14017 must be signed by the taxpayer, the examiner and the GM or designee. A Territory Manager's (TM) signature is **not** required on the Form 14017 for an SB/SE FTS case.
- (7) The taxpayer must provide the examiner with a brief, written statement of the facts along with a statement of his/her position.
- (8) If the Form 14017 is executed by a person pursuant to a Power of Attorney executed by the taxpayer, that Power of Attorney must express the taxpayer's grant of authority to consent to disclose the taxpayer's returns and return information by the Service to third parties. A copy of the Power of Attorney must be attached to the application.

Note: The Form 2848, *Power of Attorney and Declaration of Representative*, does not authorize the representative to disclose the taxpayer's returns and return information pertaining to the issues being considered in the FTS process to those persons named on the application as participants in the process, unless specifically added in Section 5 of Part I of the form.

8.26.2.7.1 (06-23-2017) SB/SE's Role in Determining Eligibility

- (1) The GM will review the case to ensure the issues are fully developed; the examiner considered all information; and the case contains properly documented lead sheets and workpapers supporting the examiner's position.
- (2) If SB/SE has any question regarding the eligibility determination, the ATM should be available to discuss them with the GM.

8.26 Alternative Dispute Resolution (ADR) Program

- (3) The GM should deny an FTS application if the taxpayer is specifically excluded and therefore does not qualify for FTS, was uncooperative during the audit process, did not respond to document requests, or did not submit an adequate written response to the proposed issues.
- (4) A request for FTS that is denied by the GM, other than the defined excluded cases, requires review and concurrence by the SB/SE TM. A decision by the SB/SE TM not to accept a case into FTS is final. SB/SE will notify the taxpayer of the denial.

8.26.2.8 (06-23-2017) Receipt of Incoming Cases

- (1) SB/SE will send the approved **SB/SE FTS Package**, which includes the signed Form 14017 , properly documented lead sheets and workpapers supporting the examiner's position, and the taxpayer's written position and response, to the ATM FTS Point of Contact (POC) at the local servicing Appeals office.
- (2) All documents in the **SB/SE FTS Package** are available to all parties present at the session.
- (3) SB/SE and Appeals may use local procedures to meet the FTS time frames and enable effective communication between the functions.

Example: SB/SE will fax the approved **SB/SE FTS Package** to the ATM FTS POC, or send the documents via secure e-mail. SB/SE will not send the administrative file.

- (4) Appeals will date stamp the Form 14017 on the date received.

8.26.2.8.1 (06-23-2017) Determining Acceptance

- (1) Within **3 business days** of receipt, the ATM will confirm SB/SE's determination that the case eligibility requirements are met.
- (2) Upon the ATM's acceptance of a case for FTS, the ATM will confirm that all issues and claims were raised, all relevant information disclosed, and the case is ready for resolution.

8.26.2.8.2 (06-23-2017) Accepting the case

- (1) If accepted, and within **3 business days** of receipt, the ATM will assign the case to an FTS Official.
- (2) The ATM will give Account and Processing Support (APS) a copy of the Form 14017, the name of the FTS Official assigned to the case, and the relevant information for input into ACDS.

8.26.2.8.3 (06-23-2017) Cases That Do Not Qualify or are Denied

- (1) If the ATM determines the case is specifically excluded from FTS, the ATM will notify the SB/SE GM within **3 business days** of receipt, provide the basis for the denial, and return the "SB/SE FTS Package" to SB/SE, who will notify the taxpayer of the reason for denial.
- (2) If the case meets the eligibility requirements for FTS, but the ATM denies the application for another reason, the ATM will notify the SB/SE GM within **3 business days** of receipt, provide the basis for the denial, and return the **SB/SE FTS Package** to SB/SE. Appeals will notify the taxpayer of the reason for denial.
- (3) Reasons an ATM might deny an application:

- a. numerous issues, whether simple or complex, which will require longer than 60 days to resolve;
 - b. SB/SE or the taxpayer is unable to meet during the 60 day time frame;
 - c. the issues are high profile or sensitive.
- (4) A taxpayer is not entitled to administrative or judicial review of the decision not to accept a case into the SB/SE FTS program.

8.26.2.9
(06-23-2017)
FTS Session

- (1) Within **5 business days** of case assignment, the FTS Official will:
- a. contact the taxpayer and SB/SE to start the planning process.
 - b. identify, determine and confirm the participants and ensure that all decision-making parties will be present during the session. To facilitate resolution, the mediator should encourage the taxpayer's participation even if the taxpayer is represented.
 - c. request additional information from either party to have full understanding of the issues and will share any information received with all parties prior to the session.
 - d. schedule the session at the servicing Appeals Office or at another neutral site agreeable to the parties and will consider meeting at a location that has the least cost or impact to the Service. This could mean the FTS Official will travel to the examiner's Post of Duty (POD). The FTS Official should consult with his/her ATM to make this decision, be flexible in setting the meeting location, and involve the SB/SE GM and examiner in the decision. .

8.26.2.9.1
(06-23-2017)
Conducting the Session

- (1) The FTS Official will:
- a. use a Form 14000, **Fast Track Session Report** to assist in planning the session; to list all issues to be considered including a description of the issues and the amounts in dispute; to report on developments during the session; and to record and finalize the disposition of issues
 - b. lead the session and ensure all parties are active participants with equal voices
 - c. not act in a traditional Appeals role, but use an interest-based approach to facilitate a settlement of the issues between the parties
 - d. conduct joint sessions with all parties and/or separate meetings as appropriate
 - e. use various methods and mediation techniques to meet the needs and circumstances of each case, which could include frank discussions about the merits of each argument, and settlement authority when warranted
 - f. attempt to bring the parties to a mutual resolution of the issues
- (2) If no resolution is reached between SB/SE and the taxpayer, the FTS Official may use his/her settlement authority to propose a settlement based on an assessment of the hazards of litigation.

8.26.2.9.2
(06-23-2017)
New Information

- (1) Generally, the FTS Official will consider only those issues outlined in the Session Report, except by mutual agreement of the parties.
- (2) It is expected that the examiner and taxpayer have raised all issues, claims, and presented all documentation before the FTS Application package is submitted to Appeals.

8.26 Alternative Dispute Resolution (ADR) Program

- (3) If the taxpayer and or SB/SE presents new information related to the issues during the session and the parties agree that the process will **not** be delayed beyond the goal of 60 days, the FTS process can continue.
- (4) If the parties determine that the process will be delayed beyond the goal of 60 days, the FTS Official will consider terminating or postponing the session until both parties have had adequate time to review and evaluate the new information.
- (5) If the session is terminated, the case is removed from FTS and the taxpayer must reapply if he or she wants to participate in SB/SE FTS.

8.26.2.9.3 (06-23-2017) **Withdrawal**

- (1) If after assignment, it is determined that the case is not ready for FTS or there is a change in the status of the case, Appeals and SB/SE will discuss withdrawal of the case from FTS.
- (2) In the event of withdrawal, the FTS Official will notify the taxpayer and SB/SE, return the Application Package to SB/SE, and follow closing procedures in IRM 8.26.2.16.
- (3) A taxpayer can withdraw from FTS at any time by providing written notice to Appeals and SB/SE.

8.26.2.9.4 (06-23-2017) **SB/SE's Role in the Process**

- (1) SB/SE participants must:
 - be fully involved in the process as equal participants.
 - include the SB/SE GM or his/her designee, the examiner, and/or others who have knowledge and expertise and who will contribute to issue resolution.
 - have decision making authority to enter into a resolution during the session.

8.26.2.10 (06-23-2017) **Appeals' Settlements**

- (1) The Appeals Official has the authority to offer a settlement in both factual and legal issues when the parties cannot reach resolution through mediation. The FTS Official should utilize his/her authority under Delegation Order 8-9 when needed to effect an agreement between SB/SE Exam, the taxpayer and the FTS Official that is based on the hazards of litigation. See IRM 1.2.47, *Delegation of Authorities for the Appeals Process*, and IRM 8.6.4.1.4, *Judicial Attitude Toward Settlement*. Neither party is obligated to accept the settlement proposal offered by the FTS Official.
- (2) If the settlement proposal is accepted by SB/SE and the taxpayer, the case is closed agreed by SB/SE on the basis of the Appeals settlement.
 - a. The FTS Official will prepare and execute the appropriate Form 870-AD, *Offer of Waiver of Restrictions on Assessment and Collection of Deficiency in Tax and to Accept Overassessment* and Form 906, *Closing Agreement on Final Determination Covering Specific Matters*, if applicable.
 - b. The FTS Official must prepare an Appeals Case Memorandum (ACM).
- (3) If the taxpayer accepts the mediator's settlement proposal, but the GM rejects it, the SB/SE TM must review the GM's rejection and either concur in writing or accept the proposal on behalf of SB/SE.

- a. If the TM concurs with the GM's rejection of the settlement, and an acceptable alternative settlement cannot be reached, Appeals will close the FTS case as unagreed.
 - b. If the TM agrees with the settlement proposal, the case is closed agreed based on that proposal.
 - c. The FTS Official will secure the appropriate (Special Appeals Agreement Form (AD) or Form 906/866 Closing Agreement, if required) documents and forward them to SB/SE, who will close the administrative file using their standard case closing procedures.
- (4) On Joint Committee cases, Appeals does not **execute** an AD type waiver or closing agreement until cleared by Joint Committee. Upon reaching an agreement, a Form 5402, *Appeals Transmittal and Case Memo* is prepared by the FTS Official stating the following:

"This case may not be closed until Joint Committee approval is received. Upon receipt of the Joint Committee letter, Appeals will execute a closing agreement and the case may then proceed through SB/SE closing procedures."

8.26.2.11
(06-23-2017)
**Form 14000 Fast Track
Session Report**

- (1) The FTS Official must prepare a Form 14000 for every FTS case and include the issues and adjustment dollars in dispute. The report is used to assist in planning the session, to report on developments during the session, and to record and finalize the disposition of the issues.
- (2) The FTS Official will solicit the taxpayer, representative, if applicable, and SB/SE's signatures on the report; give all session participants a signed copy; and explain that the resolution is not final until the necessary closing documents or waivers are signed. The signed Session Report represents the parties' good faith intention to resolve the issues addressed in the report in accordance with the terms agreed upon.
- (3) Form 14000 is not a waiver of restrictions on assessment; does not terminate consents to extend the statute of limitations; and does not start the running of any statute of limitations. The signature of an IRS Official on the Session Report does not preclude the reopening of the case under Policy Statement 4-3.

8.26.2.12
(06-23-2017)
Coordinated Issues

- (1) For all issues coordinated as either an Industry Specialty Program (ISP) or Appeals Coordinated Issues (ACI), Appeals will follow the procedures in IRM 8.7.3.4, *Review and Concurrence Procedures*.
- (2) To meet the requirements that all decision-makers attend the FTS Session and that Compliance Coordinated Issues/ACI issues are subject to the review and concurrence, the Technical Specialist (Technical Guidance or International) will serve as a team member and participate in the FTS Session with the taxpayer and SB/SE. If, for whatever reason, the Technical Specialist does not participate in the FTS session, the settlement of the ISP/ACI issue remains subject to the review and concurrence.

8.26 Alternative Dispute Resolution (ADR) Program

8.26.2.13 (06-23-2017) Unresolved Issues

- (1) If any issue(s) remain unresolved, the FTS case is closed on ACDS, and SB/SE will begin their "Unagreed" closing process.
- (2) A taxpayer retains all traditional appeal rights.
- (3) The FTS Official will destroy any notes created during the session when he/she closes the case.
- (4) Unagreed cases coming to Appeals that previously participated in SB/SE FTS are assigned to a different Appeals Officer.
- (5) If a resolution is not reached using FTS, a taxpayer retains the right to request traditional Appeals consideration. Post-appeals mediation, however, is not available for any issue considered during the FTS process if the parties fail to resolve the issue or if either party withdraws after the start of the process. See Rev. Proc. 2014-63, 2014-53, I.R.B. 1014 and Rev. Proc. 2017-25, 2017-14 I.R.B. 1.

8.26.2.14 (06-23-2017) Confidentiality in FTS

- (1) The SB/SE FTS process is confidential and all information and communications made during the SB/SE FTS process (both oral and written) are both taxpayer return information and dispute resolution communications subject to restrictions on disclosure. See IRC §6103 and 5 U.S.C. §§ 571(5) and 574. Therefore, no information or communications made during the SB/SE FTS process may be disclosed by any party, participant, or observer except as provided by statute, including IRC §§ 6103 and 7214(a)(8), as well as, 5 U.S.C. § 574. IRS employees who participate in or observe the SB/SE FTS process in any way, and any person under contract to the IRS pursuant to IRC §6103(n) who participates in or observes the SB/SE FTS process, will be subject to the confidentiality and disclosure provisions of the Internal Revenue Code, including §§6103, 7213, and 7431, as well as, 5 U.S.C. § 574.
- (2) In executing the Form 14017, the taxpayer consents to the disclosure by the IRS of the taxpayer's returns and return information incident to the settlement process to any participant or observer for the taxpayer.
- (3) If the application is executed by a person pursuant to a Power of Attorney executed by the taxpayer, that Power of Attorney must clearly express the taxpayer's grant of authority consenting to disclosure of his/her returns and return information by the IRS to third parties, and a copy of the Power of Attorney must be attached to the Application.

8.26.2.15 (06-23-2017) Ex Parte Rules

- (1) The prohibition against *ex parte* communications between Appeals employees and other IRS employees does not apply to the communications arising in SB/SE FTS. This is because the FTS Official is not acting in his/her traditional settlement role and jurisdiction of the case remains with SB/SE. See Rev. Proc. 2012-18 2012-10 I.R.B. 455, for guidance on *ex parte* communications.
- (2) On SB/SE FTS cases returned for traditional Appeals consideration, *ex parte* restrictions are **not** imposed on **intra-Appeals** communications. Appeals management will take appropriate measures to ensure these cases are handled fairly and impartially. **Ex-parte** restrictions **will** apply to communication between Appeals and other IRS originating functions, including SB/SE.

8.26.2.16
(06-23-2017)
Closing Procedures

- (1) If a settlement was reached using delegated settlement authority and is based on the hazards of litigation, the FTS Official will secure and countersign the appropriate Form 870-AD and Form 906 Closing Agreement, if applicable, and forward them to SB/SE, who will close the administrative file using their standard case closing procedures.
- (2) If an agreement is reached using mediation techniques only, SB/SE will secure the appropriate agreement document(s), preferably during the FTS session, and will close the administrative file using their standard case closing procedures.

8.26.2.16.1
(06-23-2017)
FTS Official

- (1) The FTS Official will prepare an **SB/SE FTS Closing Package** per IRM Section 8.26.2.16.3 below, and route copies of the package to the ATM, APS, and SB/SE for appropriate action.
- (2) The Appeals Official will:
 1. Prepare a Form 5402 and include the following information:
 - a. Proposed and the Revised FTS Adjustment dollars
 - b. Item 11 remarks: **SB/SE Fast Track Settlement Case**
 - c. Closing Codes are as follows:
 - 14 - Fully resolved
 - 15 - Not Resolved - Including taxpayer withdrawal
 - 16 - Partially Resolved
 - 20 - Withdrawn for procedural reasons (further development, bankruptcy)
 2. Forward a copy of the SB/SE FTS Closing Package to the ATM in order to input an ACAPDATE and begin the ACDS closing process. The ATM will forward the FTS Closing Package to APS, who will complete the ACDS case closing process. An ATM's signature is not required on Form 5402.
 3. Forward the original "SB/SE FTS Closing Package" and related documents to the SB/SE examiner/Group Manager on a Form 3210, *Document Transmittal*.
 4. Transmit via secure e-mail, an electronic copy of the Form 14000, a copy of the Form 5402, and the ACM if required, to the Appeals Policy SB/SE FTS Program Manager.

8.26.2.16.2
(06-23-2017)
**Account and Processing
Support (APS)**

- (1) Appeals does not receive an administrative file; however, APS must take the appropriate action to close the case on ACDS. APS does not process account adjustments based on agreements reached during FTS.
- (2) APS case closing procedures are contained in IRM 8.20.7, *Closing Procedures*.

8.26.2.16.3
(06-23-2017)
**SB/SE FTS Closing
Package**

(1) The **SB/SE FTS Closing Package** includes the following documents:

- Form 5402 - signed by the FTS Official
- Form 14000 (signed by all parties)
- ACM - Required when the settlement is based on the hazards of litigation
- Special Appeals Agreement Forms (AD) or Form 906/866 Closing Agreement (if required)
- Letter 1595, *Draft Closing Agreement Request for Taxpayer Signature Transmittal Letter*, transmitting a copy of executed Closing Agreement to the taxpayer

(2) The following Closing Letter language is suggested:

“The agreement reached on your SB/SE Fast Track Settlement case has been approved and we will return your file to SB/SE for processing. Enclosed is a copy of the accepted closing agreement for your records. If you have any questions, please contact me at the phone number shown above.”