



INDEPENDENT OFFICE  
OF APPEALS

DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, DC 20224

July 7, 2025

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Affected IRM: 8.22.8, 8.20.5

MEMORANDUM FOR DIRECTOR, COLLECTION APPEALS  
DIRECTOR, EXAMINATION APPEALS  
DIRECTOR, SPECIALIZED EXAMINATION PROGRAMS AND  
REFERRALS  
DIRECTOR, CASE SUPPORT

FROM: Steven M. Martin /s/ *Steven M. Martin*  
Director, Operations Support

SUBJECT: Revised Procedures on Liability Referrals in Collection Due  
Process (CDP) Hearings

This memorandum issues guidance on CDP liability referral procedures. Please distribute this information to all affected employees within your organization.

**Purpose:** This memorandum provides modifications to the roles and responsibilities – primarily for Settlement Officers in Collection Appeals – however, it includes necessary mechanical processes for Examination Appeals Officers that become involved in the referral process. Liability issues do arise in CDP, and this guidance clarifies the collaborative effort used to ensure consideration of the taxpayer's issues.

Specifically, this guidance covers creation and assignment of liability work unit numbers (WUNOs), appropriateness of transfers to Examination Appeals, providing sufficient documentation for the liability issue raised, multiple referrals on the same collection case, and the possibility of Collection Appeals working the liability issue. Unless otherwise indicated, Examination Appeals includes the Specialized Examination Programs and Referrals (SEPR) areas.

This guidance will allow employees across the operating functions of Appeals to work in partnership and administer case work in a more efficient and taxpayer friendly manner. This will improve the taxpayer experience by more quickly and accurately considering their issues with the properly raised underlying liability in CDP cases. Further, this

guidance clarifies liability referral procedures in CDP cases where the liability is properly at issue.

The Collection Appeals and SEPR functions plan to monitor and study the referrals of reasonable cause penalty appeals considered in CDP for Estate and Gift (E&G) tax returns (Form 706, U.S. Estate Tax Return, and Form 709, United States Gift (and Generation - Skipping Transfer) Tax Return) for a period of up to two years. This may result in future changes to this guidance regarding those types of return considerations.

**Background/Source(s) of Authority:** In late 2024, Collection Appeals and Examination Appeals collaborated to improve the liability referral process in CDP. These changes are a result of the discussions and concerns raised. IRM 8.22.8, Liability Issues and Relief from Liability, is the primary authority for administration of underlying liability issues in a CDP case.

**Procedural Change:** The guidance changes procedures for referring liability issues in CDP cases. These changes will increase efficiency, as well as improve communications between Appeals functions and the overall taxpayer experience.

**Effect on Other Documents:** This guidance will be incorporated into the IRM within two years from the date of this memorandum.

**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

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

**8.22.8.5.1 (MM-DD-YYYY)  
Referring a Liability Issue**

(1) Use the table below to determine whether a liability should be referred for consideration:

<b>Issue</b>	<b>Case Type</b>	<b>Feature Code</b>	<b>Worked By</b>
Innocent Spouse after Cincinnati Centralized Innocent Spouse Operations (CCISO) makes preliminary determination	I	SD, DP	SEPR (Area 10) Innocent Spouse AO
Income Tax or other Exam-related issue	I	DP	Examination AO
Income Tax or other Exam-related international issue. Follow IRM 8.22.6.4 procedures, assign to Appeals Officer-International Specialists (AO-IS).	I	DP, IC	SEPR (Area 11) AO-IS
Doubt as to Liability (DATL) Offer in Compromise (OIC): Trust Fund Recovery Penalty (TFRP) liability	OIC	LI, DP	Collection AO
DATL OIC: Non-TFRP liability	OIC	LI, DP	Examination AO
Penalties (reasonable cause) IRM 8.11.4, Penalties Worked in Appeals - Penalty Appeals (PENAP) <ul style="list-style-type: none"> <li>• Failure to File</li> <li>• Failure to Pay</li> <li>• Deposit Penalties</li> <li>• Estimated Tax Penalties</li> </ul>	PENAP	DP	Collection AO
General penalties not subject to deficiency procedures per IRM 8.11.1.2.2, Types of Penalties Received in Appeals	Relevant Code Section	DP	Examination AO
Abusive Transactions, Frivolous Submissions, or Court Sanctions Penalties (not an exhaustive list) <ul style="list-style-type: none"> <li>• 6673 (generally Collection AO)</li> <li>• 6700 (generally Examination AO)</li> </ul>	6673, 6700, 6701, 6702(a) and (b), 6707, 6707A	DP	Collection or Examination AO

Issue	Case Type	Feature Code	Worked By
<ul style="list-style-type: none"> <li>• 6701 (generally Examination AO)</li> <li>• 6702(a) (generally Collection AO)</li> <li>• 6702(b) (generally Collection AO)</li> <li>• 6707 and 6707A (generally Examination AO)</li> </ul>			
<p>International Penalties (not an exhaustive list). Follow IRM 8.22.6.4 procedures, assign to AO-IS.</p> <ul style="list-style-type: none"> <li>• 6038</li> <li>• 6038A</li> <li>• 6038C</li> <li>• 6038D</li> <li>• 6039F</li> <li>• 6046</li> <li>• 6652(f)</li> <li>• 6677</li> <li>• 6679</li> <li>• 6689</li> <li>• 6712</li> </ul>	OTHPEN	DP, IC	SEPR (Area 11) AO-IS
Interest abatement	INT	DP	Collection AO or Examination AO
Payroll liabilities assessed under IRC 6020(b) procedures	EMPL	DP	Collection AO
Trust Fund Recovery Penalty	TFRP	DP	Collection AO

(2) Referring a liability issue for Examination AO consideration requires Collection Appeals Appeals Team Manager (ATM) approval. After securing approval, request a separate WUNO using the APS Portal for the liability issue by providing Account and Processing Support (APS) with the:

- a. Case Summary Card noted "Please create a [case type] WUNO with feature code = [see table above] and Notes - XREF (WUNO of the related CDP)"
- b. Date you determined the issue was raised. APS uses this date for the REQAPPL.

(3) Note – If, after given opportunities, the taxpayer provides no information or information that, in your judgment, is inadequate for an Examination AO to consider the liability issue, do not create a WUNO or make the referral. Your determination should reflect what transpired during the hearing.

(3) Generate Form 30/40 for the new liability WUNO based on the Examination Appeals area and team closest to the taxpayer, and forward to the Collection Appeals ATM. Attach the following to the new liability WUNO, if available, and document your efforts to obtain the documentation/information.

- Administrative file, if available from Compliance, including the reason(s) the taxpayer disputes the liability.
- Taxpayer documentation provided in the CDP hearing supporting the disputed items, if available.
  - An attempt should be made to obtain, and provide, any supporting documentation to the Examination AO through contact with the taxpayer.
  - Secure documents from the Federal Records Center, or other business units, by making one request for this information. If there is no response, document that information in the Case Activity Record (CAR).
  - If complex tax issues are raised, and the Collection AO cannot readily determine what support may be needed, refer the liability WUNO to Examination Appeals and provide an explanation in the CAR.
- CDP CAR clearly documenting the justification for transfer to Examination Appeals, including how you determined the underlying liability is not precluded, or why it is precluded, but is being considered outside of the CDP hearing
- Case Summary Card for the new WUNO.

(4) The Collection Appeals ATM submits a case transfer request following guidance in Appeals Shared Support Guide to Shared Team of Administrative & Redaction Support (STARS) for transfer of the underlying liability WUNO to the Examination Appeals ATM closest to the taxpayer. The Collection Appeals ATM will email the Examination Appeals ATM and respective Area Technical Advisors (TAs) to advise of the request and to discuss any issues that should be addressed at the time of the underlying liability WUNO transfer.

\*Note - If justification is provided, Examination Appeals generally will not return the file to the Collection AO without first conducting an ATM-to-ATM conference. If there is disagreement over whether the liability is properly at issue, or any other concerns, the respective Examination AO ATM and Collection AO ATM will confer and resolve the matter. The Collection AO will follow guidance provided by their Collection AO ATM regarding the disagreement resolution.

(5) If the outcome of the liability issue could significantly affect the CDP hearing, suspend the CDP using Case Activity Record & Automated Timekeeping System (CARATS) codes SU/PI. If the CDP is suspended, update the status code to either:

- E/AP: Inactive, waiting another AO (same office).
- E/APO: Inactive, waiting another AO (outside office).

(6) The Examination AO ATM assigns the new WUNO upon receipt within Appeals Centralized Database System (ACDS).

(7) The Collection AO may contact the Examination AO for a status report after 90 days. After 120 days, the Collection AO may ask their ATM to contact the Examination AO ATM-for a status update.

(8) The Exam AO must input MS, not AC/FR, when submitting the case to their ATM.

(9) The Examination AO submits the following forms to their ATM for approval when finished with their determination, as appropriate:

- Form 30/40, Transfer Form
- Form 5402, Appeals Transmittal and Case Memo
- Form 3210, Document Transmittal
- Form 3870, Request for Adjustment, if the Examination AO determines that an adjustment to the liability is warranted
- Appeals Case Memorandum (ACM) as an attachment to the CAR so the decision can be incorporated into the CDP determination and attachment

(10) The agreed/unagreed closing code generally used for the liability issue will be used on Form 5402. Form 5402 is signed by the Examination AO ATM, but no Appeals Team Case Manager Approval (ACAP) date is applied. The Examination AO ATM submits a case transfer request to STARS for transfer of the underlying liability WUNO back to the originator.

(11) The Collection AO must use discretion in determining whether the taxpayer is prepared to discuss the liability issue at the time of the hearing. Referrals back and forth to Examination Appeals use significant time and resources, and taxpayers should be ready to discuss the issues raised regarding liability soon after the Collection AO contacts them.

Example: A taxpayer and their representative dispute the underlying liability and submit limited documentation to the Collection AO. The Collection AO obtains approval and transfers the liability WUNO to an Examination AO, who considers the issues raised. The Examination AO determines the information provided is insufficient and requests additional documentation from the taxpayer. The taxpayer and their representative do not provide the requested information, so the case is returned to the Collection AO assigned the CDP case. The Collection AO continues with the hearing and the taxpayer indicates he was working to obtain the information when the Examination AO was asking for it; however, their representative did not communicate this. The Collection AO makes a subsequent referral of the liability issue to Examination Appeals, including the new information provided.

#### **8.20.5.13.1.6.4 (MM-DD-YYYY)**

##### **CDP Liability Issues Case Carding**

(1) Appeals Technical Employees (ATEs) will determine if taxpayers can raise a liability issue in CDP or Equivalent Hearing (EH) cases.

(2) If the ATE determines the taxpayer can properly raise a liability issue, a new WUNO will be established. ATEs will request the new WUNO using the APS Portal to inform APS of the case type and feature code needed based upon the following information:

<b>Issue</b>	<b>Case Type</b>	<b>Feature Code</b>	<b>Worked By</b>
Innocent Spouse after CCISO makes preliminary determination	I	SD, DP	SEPR (Area 10) Innocent Spouse AO
Income Tax or other Exam-related issue	I	DP	Examination AO

Issue	Case Type	Feature Code	Worked By
Income Tax or other Exam-related international issue. Follow IRM 8.22.6.4 procedures, assign to AO-IS.	I	DP, IC	SEPR (Area 11) AO-IS
DATL OIC: TFRP liability	OIC	LI, DP	Collection AO
DATL OIC: Non-TFRP liability	OIC	LI, DP	Examination AO
Penalties (reasonable cause) IRM 8.11.4, Penalties Worked in Appeals - Penalty Appeals (PENAP) <ul style="list-style-type: none"> <li>• Failure to File</li> <li>• Failure to Pay</li> <li>• Deposit Penalties</li> <li>• Estimated Tax Penalties</li> </ul>	PENAP	DP	Collection AO
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International Penalties (not an exhaustive list). Follow IRM 8.22.6.4 procedures, assign to AO-IS.	OTHPEN	DP, IC	SEPR (Area 11) AO-IS

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