



# MANUAL TRANSMITTAL

Department of the Treasury  
Internal Revenue Service

8.19.13

MAY 13, 2025

## EFFECTIVE DATE

(05-13-2025)

## PURPOSE

- (1) This transmits revised IRM 8.19.13, *Docketed and Department of Justice Cases*.

## 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) (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IRM 8.19.13 dated October 31, 2013 is superseded. Incorporated Interim Guidance Memorandum AP-08-0415-0002, *Mandatory Appeals TEFRA Team (ATT) Referrals*, which was issued April 7, 2015 , into this IRM.

## AUDIENCE

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

John E. Hinding  
Director, Specialized Examination Programs and Referrals



8.19.13

Docketed and Department of Justice Cases

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8.19.13.1  
(05-13-2025)  
**Program Scope and Objectives**

- (1) Purpose: This IRM section describes the statute processes and procedures 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.

8.19.13.1.1  
(05-13-2025)  
**Background**

- (1) (1) TEFRA was passed in 1982 to allow examinations and statutes to be controlled at the partnership level. This eliminated the need to control each individual partner statute.

8.19.13.1.2  
(05-13-2025)  
**Authority**

- (1) Internal Revenue Code sections 6229, Period of Limitations for Making Assessments, 6501, Limitations on Assessment and Collection, and the TEFRA act of 1982 are the primary sources of authority, in addition to applicable Internal Revenue Manual (IRM) Sections.
- (2) Section 1101 of the Bipartisan Budget Act (BBA) of 2015 repealed TEFRA partnership and Electing Large Partnership (ELP) provisions for tax years beginning 1/1/2018 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.

8.19.13.1.3  
(05-13-2025)  
**Responsibilities**

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

8.19.13.1.4  
(05-13-2025)  
**Program Reports**

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

8.19.13.1.5  
(05-13-2025)  
**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.

8.19.13.1.6  
(05-13-2025)  
**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.

8.19.13.2  
(10-31-2013)  
**Docketed and  
Department of Justice  
Cases**

- (1) All guidance in this section of the IRM 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 by PCS. All references in this IRM to appeals officers (AO) applies equally to appeals team case leaders (ATCL) and any actions required by appeals team managers (ATM) are performed by appeals team case leaders as to their own cases.

8.19.13.2.1  
(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*.

8.19.13.2.2  
(10-31-2013)  
**Partnership Tax Years  
Ending Before August 6,  
1997**

- (1) These procedures are written for partnership tax years ending after August 5, 1997. If you have a partnership whose tax year ends before August 6, 1997, please contact the TEFRA Technical Specialists or the TEFRA AO assigned to your case for guidance.

8.19.13.3  
(10-31-2013)  
**Docketed Cases**

- (1) The Appeals Office receives TEFRA key cases in docketed status after the Tax Matters Partner (TMP) or a partner files a petition in the U.S. Tax Court to a Final Partnership Administrative Adjustment (FPAA) that was issued by Compliance. The petition may be a request for:
- A readjustment of partnership items with respect to an FPAA. The TMP, a notice partner, or a representative for a 5-percent group (IRC 6226) may file such a petition; or
  - An adjustment of partnership items with respect to an Administrative Adjustment Request (AAR). Only the TMP on behalf of the partnership can file such a petition (IRC 6228). See IRM 8.19.7 for procedures to follow in AAR cases.
- (2) Generally, receipt, assignment, and consideration of docketed cases will be the same as those for non-docketed cases. IRM 8.19.10.
- (3) The Tax Court Rules for actions filed with the Tax Court in TEFRA cases require special notifications to the court, the TMP, and unagreed parties. Carefully coordinate the processing of settlement documents with the associate area counsel attorney, as set out in IRM 8.19.13.3.9, IRM 8.19.13.3.10, and IRM 8.19.13.3.11.

8.19.13.3.1  
(10-31-2013)  
**Guidance for Account  
and Processing Support  
(APS)**

- (1) Refer to IRM 8.19.10 and IRM 8.20 for procedures for the receipt of TEFRA partnership cases by APS and other Appeals employees responsible for processing duties.

- (2) These procedures include instructions for ACDS processing of docketed cases and notifying the key case CTF.
- (3) Procedures for mailing closing packages and closing docketed cases are contained later in IRM 8.19.13.

8.19.13.3.2  
(10-31-2013)

**Request For Audit Work**

- (1) The AO should request work from the TCS by preparing Form 3608 (Request for Tax Computation Specialist (TCS) Service). Counsel attorneys can also use a Form 3608, or they may use Form 1734, or a memorandum with an attachment detailing the settlement amounts, e.g. Counsel Settlement Memorandum or Decision Document.
- (2) The request for audit work should specify whether Tax Court Rule 248(a) or 248(b) is being used. If Tax Court Rule 248(c) will apply, the AO will follow the guidelines in IRM 8.19.13.3.11.
- (3) For cases settled using Tax Court Rule 248(a), the TMP signs a stipulated decision to bind all partners in the key case to a settlement. No agreement forms are prepared or mailed to any partners.
- (4) For cases settled using Tax Court Rule 248(b):
  - a. All of the participating partners (including the TMP if he/she is a participating partner) have entered into a settlement by signing a Form 870-PT(AD) or Form 870-LT(AD) part 1, or a closing agreement, and those agreements have been co-executed by a Service representative, or
  - b. All of the participating partners do not object to the granting of the Commissioner's motion for entry of decision.

**Note:** *As agreement forms are only needed from the participating partners, because the case is docketed, and because there are time frames that must be followed under the Tax Court Rules, it is recommended that Appeals mail the agreement forms to the participating partners.*

**Note:** Refer to the "Definitions" section below for more information on who is a participating partner.

- (5) When Tax Court Rule 248(b) is being used, as Appeals will be mailing the agreement forms to the participating partners, the agreement forms and the transmittal letters will have to be prepared by Appeals. The request for audit work should specify whether the TCS should prepare them.
  - a. In this situation, dialogue will be required between the ATM of both the AO and the TCS as to specifically what the TCS will prepare.
  - b. The AO should identify any special circumstances on the Form 3608, including parent-subsidary relationships. The AO is ultimately responsible for the accuracy and completeness of the agreement forms and the transmittal letters.
- (6) The request for audit work should clearly identify if there are any penalties or affected items.

8.19.13.3.3  
(10-31-2013)  
**Responsibilities of the  
Tax Computation  
Specialist (TCS)**

- (1) The TCS will prepare the following documents whether Tax Court Rule 248(a) or 248(b) is being used:
  - a. Form 4605-A
  - b. Form 886-Z

**Note:** An exception is when the case is a no-change, in which case Form 4605–A and Form 886–Z are not prepared. See IRM 8.19.10.4.9 and IRM 8.19.11.13 for more information on no-change cases.

- (2) If Tax Court Rule 248(b) is being used, the TCS will prepare the Schedule of Adjustments page of Form 870-PT(AD) or Form 870-LT(AD).
- (3) See IRM 8.19.11.6.1, IRM 8.19.11.6.2, and IRM 8.19.11.6.3, respectively, for guidance in preparing Form 4605–A, Form 886–Z, and the Schedule of Adjustments page (if applicable for Tax Court Rule 248(b) cases).
- (4) The TCS will also begin preparing the closing package to the CTF (including the Form 3210) *if other documents are also being prepared*. See IRM 8.19.13.3.4. If no other documents are being prepared, the AO is responsible for preparing the closing package and the Form 3210.
- (5) Depending upon local procedures, the TCS will compute the revised dollar value for the key case using Exhibit 8.19.10–1.
- (6) If Tax Court Rule 248(b) is being used, Appeals should be mailing the agreement forms to the participating partners. The TCS may be asked to prepare the agreement forms and the transmittal letters to the participating partners. For more information, refer to the dialogue needed under “Request for Audit Work” in IRM 8.19.13.3.2.

**Note:** Refer to the “Definitions” section below for more information on who is a participating partner.

8.19.13.3.4  
(10-31-2013)  
**Closing Package to the  
Campus TEFRA  
Function (CTF)**

- (1) A TEFRA closing package is a group of documents that is prepared and assembled after a TEFRA partnership case is resolved. The closing package is mailed to the key case CTF to associate with the tax returns of the partners in the TEFRA partnership in order that the tax resulting from their share of the adjustments made to the TEFRA partnership return are computed and assessed in a timely manner. If the ATT is used, the package will be electronically transmitted using the secure server.

**Note:** Instructions for determining which CTF is the key case CTF may be found on the *Appeals TEFRA website*.

**Reminder:** The examiner is required to link a TEFRA partnership case on PCS when the case is still in process 60 days after the case goes into status 12. If the case is not controlled on PCS, the CTF cannot be used to mail the agreement forms as the CTFs only work with cases that are controlled on PCS. The agreement forms would have to be mailed by Appeals.



- (2) The TCS will begin preparing the closing package to the CTF (including the Form 3210) if other documents are also being prepared. If no other documents are being prepared, the AO is responsible for preparing the closing package and the Form 3210.
- (3) If at the time that the TCS begins preparing the closing package and the Form 3210, some of the documents have not as yet been prepared by the AO (for example, the ACM or Form 5402), the AO will complete the preparation of the closing package.

**Note:** Form 3210 may be generated using APGolf by going to the TEFRA category and selecting “3210 - Closing Package.” Once the form is saved as a WORD document, it should be edited to remove any information that does not apply and to add any additional information.

- (4) The AO is responsible for reviewing the closing package and is ultimately responsible for the accuracy and completeness of the documents.
- (5) Various types of closing packages for docketed cases are as follows:
  - a. For cases resolved using Tax Court Rule 248(a) (by either Appeals or Counsel), refer to Exhibit 8.19.13-1 for a sample Form 3210 that lists the documents needed for the closing package.
  - b. For cases resolved using Tax Court Rule 248(b) (by either Appeals or Counsel), when the AO has secured agreement forms from the participating partners, refer to Exhibit 8.19.11–11 for a sample Form 3210 that lists the documents needed for the closing package. The “Remarks” section should note that the case is docketed and include the docket number.
  - c. For cases resolved using Tax Court Rule 248(b) (by either Appeals or Counsel), to reflect the entered decision that binds the partners other than the participating partners, refer to Exhibit 8.19.13-1 for a sample Form 3210 that lists the documents needed for the closing package.
  - d. The ATT will use Form 14298 and electronically transmit the packages for cases that are tried in the Tax Court or are settled by Associate Area Counsel, for cases that are tried in the Tax Court and are then appealed, for cases that are tried in the Tax Court and there is a final decision by the Appellate Court or the Supreme Court, and for Department of Justice cases.
- (6) An IRC 6404(g) key case comment should be included on the Form 3210 in the “Necessary Actions” section. See IRM 8.19.1.7 and IRM 8.17.6.9. For example, if the earliest notice that was issued was a 60-day letter that was dated March 15, 2006, enter “60-day letter” and “March 15, 2006.” There may be more than one notice for the same return and more than one IRC 6404(g) notice date.
- (7) The AO, secretary, clerk, or APS (as determined locally) will make photocopies of the documents to be included in the completed closing package.
- (8) In all situations, the AO is responsible for:
  - a. The accuracy and completeness of the Form 3210 (including the one-year statute date)
  - b. Reviewing the completed closing package
  - c. Submitting it to APS to mail to the key case CTF

## (9) APS is responsible for:

- a. Ensuring all documents listed on the Form 3210 are attached.
- b. Sending the completed package to the CTF by controlled mail.
- c. Monitoring the return of the acknowledged Form 3210

8.19.13.3.5  
(10-31-2013)

**Tax Court Rules of  
Practice and Procedure**

- (1) The Tax Court adopted special rules to conclude partnership proceedings when the parties to the action have entered into a settlement agreement or consistent agreement.
- (2) The importance of the rules is underscored by the fact that the Tax Court considers it likely that a substantial majority of partnership actions will be settled by the parties prior to trial.
- (3) The Tax Court Rules include comprehensive procedures for settlement agreements, service of papers, duties of the TMP, definitions, and other areas relating to partnership actions.
- (4) The Tax Court's Rules of Practice and Procedure are found on their website.

8.19.13.3.6  
(10-31-2013)

**Definitions**

- (1) The Tax Court defined certain terms related to the unified proceedings in the Tax Court Rules as follows:
  - a. **Tax Matters Partner:** Per Tax Court Rule 240(b)(4), the person who is the tax matters partner under IRC 6231(a)(7) and who under these rules is responsible for keeping each partner fully informed of the partnership action.
  - b. **Party to the Action:** Per Tax Court Rule 247, each person who was a partner at any time during the partnership taxable year provided that partner has an interest in the outcome of the action and whose partnership items haven't been converted to nonpartnership items. The TMP is treated as a party to every partnership action whether or not the TMP has an interest in the proceeding. The TMP is still a party to the action even if the TMP executed a settlement agreement converting his partnership items to nonpartnership items.
  - c. **Participating Partners:** Under Tax Court Rule 247, the partner(s) who filed the petition and other partners who filed a notice of election to intervene or a notice of election to participate. The TMP, by filing a notice of election to intervene, becomes a participating partner.
  - d. **Intervenor:** Under Tax Court Rule 245(a), the TMP may file a notice of election to intervene within 90 days from the date that the petition filed by another partner was served on the Commissioner by the court's clerk. This election establishes the TMP as a participating partner.

8.19.13.3.7  
(10-31-2013)

**Settlement with Partners  
of Docketed TEFRA  
Partnerships**

- (1) Tax Court Rule 248 establishes comprehensive procedures for settlement agreements. Those procedures are affected by the mandatory service requirements of Tax Court Rule 246 and the TMP's responsibility to keep each partner informed.
- (2) The Tax Court rules are effective as of October 3, 2008. Amendments to the Tax Court rules state their effective date.
- (3) Exhibit 8.19.13-2 shows documents and signatures required for the specific provisions of Tax Court Rule 248.

8.19.13.3.7.1  
(10-31-2013)

**Settlement Agreements**

- (1) The AO should not accept any settlement agreements (agreement forms) within 75 days of the calendared trial date, unless the case will be fully agreed or unusual circumstances exist. Since any partner may request consistent settlement of any agreement form within 60 days of being signed on behalf of the commissioner, the 75 day procedure should eliminate consistent settlement requests after a trial has started by providing an additional 15 days hedge for processing delays. (See IRM 8.19.10.4.8.1 for consistent settlement procedures.)
- (2) Within 75 days of the trial date, the associate area counsel attorney or AO will withdraw any outstanding settlement offers. Therefore, only consistent settlements may be processed during the 60 days following acceptance of the last agreement form.
- (3) All agreement forms received from partners must be coordinated with the associate area counsel attorney before they are signed on behalf of the IRS. The AO is responsible for keeping the attorney apprised of any settlement offers received. Under Tax Court Rule 248(c), Associate Area Counsel is responsible for notifying the Tax Court if any agreement forms are signed. Also, certain documents must be served on the TMP within 7 days of agreement forms being signed for the commissioner. See IRM 8.19.13.3.11.

8.19.13.3.8  
(10-31-2013)

**Responsibilities**

- (1) The procedures outlined below apply to the AO, associate area counsel attorney, or to both jointly, depending upon the circumstances of the case.
- (2) The specific responsibilities for preparing certain documents such as correspondence to partners and the TMP and decision documents may vary depending upon local office policy and whether or not the ATT is used. In addition, responsibilities may vary depending upon whether Appeals or Counsel has jurisdiction. However, follow the procedures established in this text carefully due to the strict time constraints placed on the Service and the TMP for the notification requirements.

8.19.13.3.9  
(10-31-2013)

**Tax Court Rule 248(a)**

- (1) When the TMP signs a stipulated decision to bind all partners in the key case to a settlement, follow Rule 248(a). The TMP may or may not be a participating partner.
- (2) The TMP will sign a stipulation which will certify that no party objects to entry of the decision. This stipulation effectively binds all parties to the settlement and closes the case fully agreed.

8.19.13.3.9.1  
(10-31-2013)

**Appeals Officer (AO)  
Responsibilities**

- (1) If the TMP agrees to bind all parties to the settlement, the AO will notify Associate Area Counsel that a stipulated decision must be prepared.
- (2) When the stipulated decision documents are received from Associate Area Counsel, the AO will prepare a Form 5402 and submit the case (including the stipulated decision documents) to the ATM for approval before the decision is mailed to the TMP. *The AO will retain the Form 3210 and the closing package as these are not being mailed to the CTF at this time.*

**Note:** A customized Form 5402 for TEFRA cases is generated in APGolf by virtue of the TEFRA type code on ACDS.

- (3) After the ATM approves the settlement, the AO will use Letter 1220 to send the stipulated decision to the TMP for signature. The TMP is required to sign the stipulation; the signature of the TMP's counsel is not acceptable by itself, but may be added in addition to the TMP's signature. If the TMP is a corporation, an officer of the corporation must sign the stipulation.
- (4) The AO will prepare Letter 1645 and leave an undated copy in the file so that it can be dated and mailed by local APS when the case is sent to Counsel for entry of the decision.
- (5) When the decision is signed and returned by the TMP, the AO will close the case to local APS.

8.19.13.3.9.2  
(10-31-2013)

**Preparing Partnership  
Administrative File for  
Closing**

- (1) APS will follow the procedures in IRM 8.20, including sending the administrative file to Counsel, if applicable, in order to have the decision entered. APS will date and mail Letter 1645 when the case is sent to Counsel for entry of the decision.
- (2) After the decision is entered, Counsel will return the case to Appeals for closing along with a copy of the entered decision and any special instructions. APS will give the file (which will include a copy of the Form 3210 and closing package that was previously prepared by the TCS or AO) to the AO. See Exhibit 8.19.13-1 for a sample Form 3210. The documents needed for the closing package are listed on the Form 3210.
- (3) The date the decision becomes final (90 days after the Tax Court has entered the decision unless an appeal is filed) will control for purposes of determining the one-year statute date.
- (4) The AO will enter the one-year statute date on the Form 3210. In computing the one-year statute date, one day should be subtracted from the date that is one year from when the decision became final.

**Example:** If the decision was entered by the Tax Court on August 31, 2009, the one-year statute date should be computed as follows: August 31, 2009 + 90 days = November 29, 2009 + 1 year = November 29, 2010 - 1 day = November 28, 2010.

**Note:** If Counsel sends the administrative file to Appeals before the decision has become final, the AO will not close the case to APS until the decision has become final unless instructions from the counsel attorney provide otherwise.

**Caution:** The AO should ensure that any instructions to the key case CTF for issuing affected item reports or affected item notice of deficiency are included on the Form 3210.

- (5) The AO will ensure that all documents listed on the Form 3210 are included in the closing package. The AO is ultimately responsible for the accuracy and completeness of the Form 3210, including the one-year statute date. The file will then be returned to APS.
- (6) APS will ensure that the documents listed on the Form 3210 are included in the closing package. APS will mail the closing package to the key case CTF within 5 workdays after receipt of the file from the AO using the Form 3210 prepared by the TCS or AO. Instructions for monitoring the return of the Form

3210 by APS may be found in IRM 8.19.13.3.4.

**Note:** The examiner is required to link a TEFRA partnership case on PCS. If the case is not linked on PCS, the closing package is not mailed to the key case CTF as the CTFs only work with cases that are controlled on PCS. The closing package will still have to be associated with the partners' returns and AIMS may be used to identify the location of the partners' returns.

(7) See IRM 8.19.13.3.16 for instructions for closing docketed cases.

8.19.13.3.9.3  
(10-31-2013)  
**Associate Area Counsel  
Responsibilities**

- (1) When notified that the TMP agrees to bind all parties to a settlement, the attorney will prepare a stipulated decision. The stipulation will be executed by the TMP who certifies that no party objects to the entry of decision.
- (2) After the TMP signs the stipulation it will be filed with the court. As soon as Associate Area Counsel receives a copy of the entered decision, the attorney will immediately send a copy to the AO. Counsel will return the administrative file to local APS for closing along with a copy of the final decision and any special instructions. Local APS will send the administrative file to Laguna Niguel APS.

8.19.13.3.10  
(10-31-2013)  
**Tax Court Rule 248(b)**

- (1) Rule 248(b) applies when the TMP will not certify that all partners do not object to the settlement. It covers those cases where:
  - a. All of the participating partners (including the TMP if he/she is a participating partner) have entered into a settlement by signing a Form 870-PT(AD), Form 870-LT(AD) part 1, or a closing agreement, and those agreements have been co-executed by a Service representative, or
  - b. All of the participating partners do not object to the granting of the Commissioner's motion for entry of decision.

**Reminder:** Under Tax Court Rule 247, a participating partner is the partner who filed the petition and other partners who filed a notice of election to intervene or a notice of election to participate.

- (2) Rule 248(b) establishes a procedure either to bring the proceeding to a conclusion or to require nonparticipating partners to request the court's consent to continue the key case proceeding. This rule will be applied when the AO or associate area counsel attorney has received either of the following:
  - a. Signed agreement forms from all participating partners, or
  - b. Notification that no participating partner objects to the settlement.
- (3) When the AO obtains signed agreement forms from all participating partners, consult Associate Area Counsel. The rule states that Associate Area Counsel must serve certain documents on the TMP within 3 days of filing a motion for entry of the decision. Therefore, the AO and associate area counsel attorney must carefully coordinate the agreement forms received from participating partners.

**Note:** Many docketed cases have only one participating partner so this rule will apply when that partner agrees.

8.19.13.3.10.1  
(10-31-2013)  
**Appeals Officer  
Responsibilities**

- (1) Rule 248(b) will apply when all participating partners agree with the settlement. To ensure the applicability of Rule 248(b) before filing this type of motion, generally the AO should secure a signed agreement form from each participating partner to substantiate his/her agreement.
- (2) The AO will prepare Letter 1645 and leave an undated copy in the file so that it can be dated and mailed by APS when the case is sent to Counsel for entry of the decision.
- (3) The AO or TCS will prepare the agreement forms and transmittal letters. For more information, refer to the dialogue needed under "Request for Audit Work" in IRM 8.19.13.3.2.
  - a. Use IDRS in order to identify the current addresses of the participating partners.
  - b. For partners that filed a joint return, the agreement form should include the names of both spouses and both need to sign the agreement form in order for both spouses to be considered agreed (see IRM 8.19.11.4.1 for more information on joint returns).
  - c. For partners that filed a consolidated return, see IRM 8.19.11.4.2.
  - d. Photocopy the Schedule of Adjustments page and attach it to each agreement form that is prepared using APGolf.
  - e. Two copies of the agreement form will be mailed to each partner.
  - f. Prepare a transmittal letter for each partner using APGolf. Letter 2606 is used to mail Form 870-PT(AD). Letter 2607 is used to mail Form 870-LT(AD).

**Note:** If Form 870-LT(AD) is used, only part 1 needs to be signed by the participating partners in order to resolve the Tax Court action. Any affected items requiring a partner level determination will then need to have an affected item notice of deficiency issued to the partner upon the conclusion of the partnership proceeding.

- (4) The AO will prepare a Form 5402 and submit the case (including the partner agreement forms and transmittal letters) to the ATM for approval before the agreement forms are mailed to the participating partners. *The AO will retain the closing package as it is not being mailed to the CTF at this time.*

**Note:** A customized Form 5402 for TEFRA cases is generated in APGolf by virtue of the TEFRA type code on ACDS.

- (5) After the settlement is approved by the ATM, the file (including the participating partner agreement forms and transmittal letters) will be given to APS.
- (6) APS will mail the transmittal letter and two copies of the agreement form to each participating partner. Copies will be made and included in the administrative file. The administrative file will be returned to the AO.

8.19.13.3.10.2  
(10-31-2013)  
**Monitoring the Case**

- (1) The AO will retain the administrative file and monitor the return of the agreement forms by the participating partners. If all participating partners do not agree to the settlement, the case cannot be closed using Tax Court Rule 248(b).



8.19.13.3.10.3  
(10-31-2013)  
**Receiving/Accepting  
Agreement Forms**

- (1) When the agreement forms are received in the Appeals Office they will be receipt date stamped (on the reverse side) and forwarded to the AO. The receipt date stamp will generally differ from the date of execution by the Service. The date of execution by the Service starts the running of the one-year statute date under IRC 6229(f).
- (2) If a partner signed and returned only one copy of the agreement form, a copy should be made after it is date stamped.
- (3) The AO will collect the agreement forms and prepare them for processing. They should be submitted to the ATM for signing and mailing to the CTF.
- (4) The AO will review the agreement forms to ensure that the Schedule of Adjustments page shows the proper amounts, that the appropriate signatures are included, and that the closing package is complete and correct. The AO is ultimately responsible for the accuracy and completeness of the closing package, including the Form 3210.

**Note:** If a joint return was filed, both husband and wife should sign the agreement form, even if only one spouse had an interest in the partnership.

- (5) The AO will identify the participating partners that signed agreement forms on the Form 886-Z that was previously prepared by the TCS.
  - a. Write "Agreed" and the date that the partner signed the agreement in red next to the partner's name. See IRM 8.19.11.9.2 and Exhibit 8.19.11-10.
  - b. For partnership tax years ending after August 5, 1997, if a penalty is agreed, write "Agreed" in the Penalty Status column next to the penalty percentage. If an affected item other than a penalty is agreed, write "Agreed" in the Affected Item Status column next to the affected item. If a penalty or affected item is unresolved, write "Open" in the applicable column next to the penalty percentage or the affected item. See IRM 8.19.11.9.2 and Exhibit 8.19.11-10. In this exhibit, partners Daisy and Lilac agreed to both the partnership items and affected items (including penalties) and signed both parts of Form 870-LT(AD); partner Rose only agreed to the partnership items and penalties and signed only Part I of Form 870-LT(AD).

**Note:** The Form 3210 will have to instruct the CTF to issue an affected item notice of deficiency to partner Rose for affected items other than penalties.

- (6) The AO should ensure that any special instructions for the key case CTF are included on the Form 3210.
- (7) After entering the information on the Form 886-Z, the AO will give the case (including the participating partner agreement forms and the closing package) to the ATM. The AO will ensure that all documents listed on the Form 3210 are included with the closing package.
- (8) The ATM will sign the participating partner agreement forms within 5 workdays after receiving the case from the AO. The ATM will enter the one-year statute date on the Form 3210. In computing the one-year statute date, one day should be subtracted from the date that is one year from when the ATM signed the agreement form.

**Example:** If the ATM signs the agreement forms on August 31, 2009, the one-year statute date should be computed as follows: August 31, 2009 + 1 year = August 31, 2010 - 1 day = August 30, 2010.

**Note:** All Appeals agreement forms must be signed on behalf of the commissioner by an authorized person per Delegation Order 4-19 (IRM 1.2.43.17). Appeals Team Case Leaders are authorized to sign agreement forms for their respective cases.

- (9) After the agreement forms are signed and the one-year statute date is entered on the Form 3210, the ATM will forward the agreement forms closing package to APS. The file will be returned to the AO as the case cannot be closed until a decision is entered which becomes final.
- (10) APS will ensure that the documents listed on the Form 3210 are included in the closing package. APS will mail the agreement forms closing package to the key case CTF within 5 workdays after the forms are signed for the commissioner, using the Form 3210 prepared by the TCS or AO. Instructions for monitoring the return of the Form 3210 by APS may be found in IRM 8.19.13.3.4.

**Caution:** The closing package for the agreement forms that are signed by the participating partners must be mailed to the CTF as the one-year statute date to assess for the participating partners is governed by IRC 6229(f) and not when the final Tax Court decision is entered using Tax Court Rule 248(b).

- (11) The key case CTF will complete the following actions:
  - a. Process the agreement forms
  - b. Input the one-year statute date on PCS
  - c. Send an original of the signed agreement form to the partner CTF for tax computation and assessment
- (12) After the participating partner agreement forms have been signed by the ATM, the AO will notify Associate Area Counsel. The attorney will file a motion for entry of the decision and serve documents on the TMP, as shown in IRM 8.19.13.3.10.4.
- (13) Associate Area Counsel will advise the AO if any other party objects to entry of the decision. If any objection is filed and the court grants that partner's motion, the AO will forward the case to Associate Area Counsel for trial. If no other party objects or if the court denies the objecting party's motion, the court will enter the decision.
  - a. The AO and APS will follow the instructions shown in IRM 8.19.13.3.9.2 beginning with subsection (2), except that Letter 1220 is not used since the stipulated decision is not sent to the TMP for signature.
  - b. The Form 3210 will instruct the CTF to process the partners who didn't sign agreement forms under the final court decision. See Exhibit 8.19.13-1 for a sample Form 3210.

**Reminder:** If any partner (including a participating partner) signs an agreement form, under Tax Court Rule 248(b), the one-year statute date begins on the date a delegated official executes the agreement for the commis-



sioner. If a partner is bound by an entered decision submitted under Rule 248(b), the one-year statute date begins on the date the decision becomes final.

8.19.13.3.10.4  
(10-31-2013)

**Associate Area Counsel  
Responsibilities**

- (1) The attorney will prepare a decision document and file a motion for entry of the decision after being notified that all participating partners have signed agreement forms and that they have been signed on behalf of the commissioner.
- (2) Within 3 days of filing the motion, Associate Area Counsel will serve on the TMP a certificate showing the date the motion was filed. The package will include:
  - a. A copy of the proposed decision
  - b. A copy of the commissioner's motion
  - c. A copy of the commissioner's certificate
  - d. A copy of Rule 248
- (3) Within 3 days of receipt of the certificate, the TMP will serve copies of the documents in paragraph (2) above on all other parties.
- (4) If any of the other parties object to the granting of the entry of the decision, that party must file a motion to participate or to intervene within 60 days after the motion was filed by the commissioner. If any partner does file such motion, and that motion is granted by the court, the attorney will advise the AO that the action will continue.
- (5) If no motion is filed within the 60 days or if the court denies an objecting party's motion, the attorney will send a copy of the entered decision to the AO. The AO will proceed with closing the case.
- (6) If the case is tried or Counsel settles it, Counsel will send the file to local APS for closing along with a copy of the entered decision and any special instructions. Local APS will forward the file to Laguna Niguel APS.

8.19.13.3.11  
(10-31-2013)

**Tax Court Rule 248(c)**

- (1) These Tax Court procedures are used when one or more participating partners settle but the docketed case has at least one unagreed participating partner.
- (2) Rule 248(c)(1) requires the IRS to notify the court when a participating partner enters into a settlement agreement or consistent settlement before the court proceeding is completed.
- (3) Rule 248(c) applies only when Rule 248(a) and Rule 248(b) are not applicable. If all participating partners have settled, Rule 248(c)(1) and Rule 248(c)(2) are not applicable. This procedure doesn't end the partnership proceeding.
- (4) Rule 248(c)(2) provides the mechanism (explained below) by which all parties to the action are informed of a settlement so that they can request consistent settlement. The request for consistent settlement must be made no later than the 60th day after the day on which the settlement was entered into. Rule 248(c)(2) does not apply when a consistent settlement is entered into.

**Reminder:** Under Tax Court Rule 247, a party to the action is each person who was a partner at any time during the partnership taxable year provided

that partner has an interest in the outcome of the action and whose partnership items haven't been converted to nonpartnership items.

- (5) If any partner, including a participating partner, signs an agreement, and the agreement (other than a consistent settlement) is accepted, a statement notifying the TMP of the settlement must be served on the TMP within 7 days of acceptance.
- (6) Within 7 days of receipt, the TMP must serve this statement on all parties to the action who have not settled.
- (7) Rule 248(c)(2) is followed when one or more participating partners have not agreed to a settlement. However, at some point during the processing of a case, all participating partners may agree. If this occurs, follow Rule 248(b).

8.19.13.3.11.1  
(10-31-2013)

**Appeals Officer (AO)  
Responsibilities**

- (1) When all participating partners agree to a settlement, Rule 248(b) will apply and the AO will follow procedures at IRM 8.19.13.3.10. However, if one or more does not agree, Rule 248(c)(2) will be followed.
- (2) Notify associate area counsel attorney when some, but not all, of the participating partners have agreed to a settlement. Do not have the agreement forms signed on behalf of the commissioner immediately. Hold them until Associate Area Counsel has been consulted. Associate Area Counsel will file a notice of settlement or consistent settlement with the court stating the names of the participating partners who agreed. The participating partners' signatures are not required on the notice filed with the court.
- (3) If the case is in Appeals' jurisdiction, any agreement forms received by the CTFs and Associate Area Counsel are forwarded to Appeals before acceptance. Generally, every 30 days the AO will batch the agreement forms and prepare a settlement package that will contain the items listed below (see Exhibit 8.19.13-3 for a sample package provided to the TMP under Rule 248(c)(2)):
  - a. A letter and envelope to the TMP.
  - b. A statement listing the partners who have signed the agreements, including the date of the agreement and the year or years to which it relates.
  - c. A copy of Rule 248.
  - d. A copy of the Schedule of Adjustments page that shows the adjustments agreed to.

**Caution:** Only send the Schedule of Adjustments page, not the entire agreement form. Revealing partner level information may violate disclosure rules.

- (4) The letter and statement are mailed to the TMP by certified mail within 7 days of the day the ATM signs the agreements forms. The TMP then has 7 days to mail the statement to all parties to the action. The mailing to the TMP is critical since Rule 248(c)(2) affords all parties to the action the opportunity of entering into a consistent settlement based on a settlement agreement entered into by any partner, whether a participating partner or not.
- (5) Because the case is docketed, and because there are time frames that must be followed under the Tax Court Rules, *it is recommended that Appeals mail any agreement forms to the partners that wish to enter into a consistent settle-*

ment. Follow the guidelines under Tax Court Rule 248(b) in IRM 8.19.13.3.10 for securing and processing the agreement forms.

- (6) For 60 days after an agreement is signed for the commissioner, parties to the action may request a consistent settlement. Under *Treas. Reg. 301.6224(c)-3(c)* a partner desiring consistent settlement terms will submit a written statement to the office that entered into the settlement. After the 60 days expire, an agreement could be executed if the settlement terms are still considered appropriate. However, after the 60 day period expires the partner no longer has a right to request consistent settlement, and the choice to accept an agreement after the 60 day period will depend upon the facts of the case and must be decided on a case-by-case basis. Acceptance of a request after the 60 day period may start a new 60 day period for all other partners. See IRM 8.19.10.4.8.1 for consistent settlement procedures.
- (7) After the 60-day period ends, the AO will forward the case to Associate Area Counsel for appropriate action.

8.19.13.3.11.2  
(10-31-2013)

**Associate Area Counsel  
Responsibilities**

- (1) The associate area counsel attorney will prepare and file a notice of settlement agreement or notice of consistent settlement with the court when some, but not all, participating partners sign agreement forms.
- (2) All agreement forms received at the key case CTF or Appeals Office will be sent by the AO to the associate area counsel attorney before acceptance. The agreement forms should generally be batched every 30 days and submitted to Appeals for signature.
- (3) The associate area counsel attorney will prepare a settlement package for cases in Counsel jurisdiction to submit to the ATM for signing of the agreement forms. In addition, the associate area counsel attorney will prepare and file with the court a notice of settlement or consistent settlement as the case may be.
- (4) The settlement package will include:
  - a. A letter and envelope to the TMP.
  - b. A statement listing the partners who signed the agreements, including the date of the agreement and the year or years to which it relates.
  - c. A copy of Rule 248.
  - d. A copy of the Schedule of Adjustments that shows the adjustments agreed to.

**Caution:** Only send the Schedule of Adjustments page, not the entire agreement form. Revealing partner level information may violate disclosure rules.

- (5) Copies of the agreement forms will not be sent to the TMP.
- (6) The associate area counsel attorney will send the completed settlement package to Appeals for review and mailing by the AO to the TMP.
- (7) If agreement forms are received from all participating partners, follow Rule 248(b).

8.19.13.3.12  
(10-31-2013)

**Docketed Cases for Trial Preparation**

- (1) The AO will prepare the administrative file for forwarding to Associate Area Counsel when a settlement cannot be reached.
- (2) The AO will prepare and leave an undated copy of Letter 971 to notify the TMP that the case is being transferred for trial preparation. Local APS will date and mail the Letter 971 before sending the case to Associate Area Counsel.
- (3) The AO will submit the administrative file to the ATM for forwarding to Counsel.
- (4) The associate area counsel attorney may request that Appeals assist in securing and processing settlement agreements while the case is in docketed status. This may include preparation of the Form 4605-A and Form 886-Z from the TCS, update of the one-year statute date, and processing instructions to the CTFs. Since the delegation order does not give Associate Area Counsel the authority to accept settlement agreements, Appeals may be asked to execute them.

8.19.13.3.13  
(10-31-2013)

**Tried Cases or Counsel Settlement**

- (1) For cases that are either tried or settled by Counsel, after the decision is entered Counsel will return the case to Appeals for closing along with a copy of the entered decision, the counsel settlement memorandum (if applicable) and any special instructions. The cases should be sent to Laguna Niguel APS. The Appeals TEFRA Team (ATT) will assist, if necessary, in preparing the cases for closing.

- (2) When the decision becomes final (90 days after the Tax Court entered the decision unless an appeal is filed), Laguna Niguel APS will:

- a. Update the statute on ACDS to reflect the one-year statute date. In computing the one-year statute date, one day should be subtracted from the date that is one year from when the decision became final.

**Example:** If the decision was entered by the Tax Court on August 31, 2009, the one-year statute date should be computed as follows: August 31, 2009 + 90 days = November 29, 2009 + 1 year = November 29, 2010 - 1 day = November 28, 2010.

- b. Return the case to the ATT to prepare and electronically transmit a closing package to the CTF using the secure server. Form 14298, Appeals TEFRA Electronic Notice Package Check Sheet, is the cover sheet the ATT uses to electronically transmit documents to the CTF.

- (3) When the decision is final, the one-year assessment period begins.

**Caution:** For cases dismissed for lack of jurisdiction, there may or may not be assessments needed on the partners, depending on why the case was dismissed. As such, a closing package may not be required at this time. Any questions as to what actions are needed as to the partners should be directed to the counsel attorney.

- (4) If other documents are needed (for example, Form 4605-A and Form 886-Z), the ATT AO will submit a Request for Audit Work as provided in IRM 8.19.13.3.2.

**Note:** It is not necessary to prepare a new Form 5402. The Form 5402 that was previously prepared is sufficient.

- (5) The TCS will prepare the documents requested as provided in IRM 8.19.13.3.3 and begin preparing the closing package as provided in IRM 8.19.13.3.4. If no other documents are being prepared, the ATT AO is responsible for preparing the closing package and the Form 14298 .
- (6) In addition to a copy of the dated decision or order and the signed stipulation (if applicable), the following documents should be marked "Information Only-Do Not Mail to Taxpayer" and included in the closing package:
  - Appeals Case Memorandum/Counsel Settlement Memorandum, if applicable
  - Form 5402
  - Form 9724
  - Form 4605-A
  - Form 886-Z
- (7) Tried docketed TEFRA key cases are resolved under the rules of practice of the United States Tax Court. Tax Court Rule 155 states that Rule 155 computations determine deficiency, liability or overpayment amounts. Since there is only a determination of partnership level items and no determination of deficiency, liability or overpayment in TEFRA cases, the TCS will prepare a Rule 155 type computation, which will include the Summary Page showing the adjustment to the TEFRA partnership. See Exhibit 8.19.13-4.
- (8) The ATT AO will enter the one-year statute date on the Form 14298. In computing the one-year statute date, one day should be subtracted from the date that is one year from when the decision became final (see Example in (2)a) above).

**Note:** If Counsel sends the administrative file to Appeals before the decision has become final, the ATT will not close the case to Laguna Niguel APS until the decision has become final unless instructions from the counsel attorney provide otherwise.

**Caution:** The ATT AO should ensure that any instructions to the key case CTF for issuing affected item reports or affected item notice of deficiency are included on the Form 14298.

- (9) The ATT AO will ensure that all required documents are included in the closing package. The ATT is ultimately responsible for the accuracy and completeness of the Form 14298, including the one-year statute date. The ATT AO will electronically transmit the closing package to the CTF using the secure server. After the CTF acknowledges receipt of the package, the ATT AO will return the file to Laguna Niguel APS.
- (10) See IRM 8.19.13.3.16 for instructions for closing docketed cases.

8.19.13.3.14  
(10-31-2013)  
**Tax Court Decision  
Appealed**

- (1) If a partner or the government appeals the decision of the Tax Court, Associate Area Counsel will return the case to Appeals for interim processing. Counsel will prepare Form 9724 (memorandum from Chief Counsel) with instructions for processing the case. The cases should be sent to Laguna Niguel APS. The ATT will assist, if necessary, in preparing the cases for closing.
- (2) After notification of the appeal is received, Laguna Niguel APS will:

- a. Update ACDS with ACTION: APPEALED and TODATE.
    - b. Update the remarks section of ACDS.
    - c. Return the case to the ATT to prepare and electronically transmit a closing package to the CTF using the secure server. Form 14298, Appeals TEFRA Electronic Notice Package Check Sheet, is the cover sheet the ATT uses to electronically transmit documents to the CTF.
  - (3) If other documents are needed (for example, revised Form 4605-A and Form 886-Z), the ATT AO will submit a Request for Audit Work as provided in IRM 8.19.13.3.2.
- Note:** It is not necessary to prepare a new Form 5402. The Form 5402 that was previously prepared is sufficient.
- (4) The TCS will prepare the documents requested as provided in IRM 8.19.13.3.3 and begin preparing the closing package as provided in IRM 8.19.13.3.4. If no other documents are being prepared, the ATT AO is responsible for preparing the closing package and the Form 14298 .
  - (5) The Form 14298 will notify the CTF that the Tax Court decision is on appeal to the circuit court and not to close the PCS/AIMS linkages. In addition to a copy of the dated decision or order, the following documents should be marked “Information Only-Do Not Mail to Taxpayer” and included in the closing package:
    - Form 5402
    - Form 9724
    - Form 4605-A
    - Form 886-Z
  - (6) If the Tax Court decision sustains the petitioner’s position, no assessment should be made on an appeal of that decision. However, if the appellate court reverses the Tax Court decision, and the petitioner appeals the results of the appellate court, assessments should be made on the parties to the action in accordance with the decision of the appellate court. The assessment may have to await the entry of a revised decision by the Tax Court.
  - (7) If a bond is posted, the Tax Court will determine the amount based on its estimate of the aggregate liability of the parties to the action (IRC 7485). Counsel, Appeals and the CTF should cooperate in a timely manner to provide the information needed by the court to determine the bond.
  - (8) If a bond is not posted, the Form 14298 will request that the CTF assess the partnership items in accordance with the Tax Court decision. *Since the Tax Court decision is not final, the one-year assessment period has not begun.*
    - a. Although the one-year assessment period has not begun, the ATT AO will enter a one-year statute date on the Form 14298. In computing the one-year statute date, one year will be added to the date that the appeal was filed.

**Example:** If the appeal was filed on August 31, 2009, the one-year statute date should be computed as follows: August 31, 2009 +1 year = August 31, 2010.
    - b. If there are affected items, the Form 14298 should provide that these should not be assessed at this time, except for penalties for partnership tax years ending after August 5, 1997.



- (9) The ATT AO will ensure that all required documents are included in the closing package. The ATT AO is ultimately responsible for the accuracy and completeness of the Form 14298, including the one-year statute date. The ATT AO will electronically transmit the closing package to the CTF using the secure server. After the CTF acknowledges receipt of the package, the ATT AO will return the file to Laguna Niguel APS.
- (10) Laguna Niguel APS will return the file to Associate Area Counsel unless the Form 9724 provides other instructions for where the file should be sent.

**Caution:** The case should not be closed from either AIMS or from ACDS at this time.

8.19.13.3.15  
(10-31-2013)

**Final Decision from  
Appeal of Tax Court  
Decision**

- (1) When an appeal from a Tax Court decision is final, the Department of Justice will return the case to Appeals through Counsel to notify the CTF to complete processing of the partnership items of the partners and to process the penalties and affected items. The cases should be sent to Laguna Niguel APS. The Appeals TEFRA Team (ATT) will assist, if necessary, in preparing the cases for closing.
- (2) When the decision becomes final (90 days after the Tax Court entered the decision), Laguna Niguel APS will:
  - a. Update the statute on ACDS to reflect the one-year statute date. In computing the one-year statute date, one day should be subtracted from the date that is one year from when the decision became final.

**Example:** If the decision was entered by the Tax Court on August 31, 2009, the one-year statute date should be computed as follows: August 31, 2009 + 90 days = November 29, 2009 + 1 year = November 29, 2010 - 1 day = November 28, 2010.
  - b. Return the case to the ATT to prepare and electronically transmit a closing package to the CTF using the secure server. Form 14298, Appeals TEFRA Electronic Notice Package Check Sheet, is the cover sheet the ATT uses to electronically transmit documents to the CTF.
- (3) When the decision is final, the one-year assessment period begins.
- (4) If other documents are needed (for example, Form 4605-A and Form 886-Z), the ATT will submit a Request for Audit Work as provided in IRM 8.19.13.3.2.

**Note:** It is not necessary to prepare a new Form 5402. The Form 5402 that was previously prepared is sufficient.

- (5) The TCS will prepare the documents requested as provided in IRM 8.19.13.3.3 and begin preparing the closing package as provided in IRM 8.19.13.2.4. If no other documents are being prepared, the ATT is responsible for preparing the closing package and the Form 14298 .
- (6) The following documents are needed for the closing package:
  - Copy of dated decision or order
  - Copy of signed stipulation (if applicable)
  - Copy of Circuit Court decision rendered
  - Copy of Supreme Court decision

The following documents should be marked "Information Only-Do Not Mail to Taxpayer" and included with the closing package:

- Form 5402
- Form 9253, Appellate Court Closing Memorandum
- Form 4605-A
- Form 886-Z

- (7) The ATT AO will enter the one-year statute date on the Form 14298. In computing the one-year statute date, one day should be subtracted from the date that is one year from when the decision became final (see Example above).

**Note:** If Counsel sends the administrative file to Appeals before the decision has become final, the ATT will not close the case to APS until the decision has become final unless instructions from the counsel attorney provide otherwise.

**Caution:** The ATT should ensure that any instructions to the key case CTF for issuing affected item reports or affected item notice of deficiency are included on the Form 3210.

- (8) The ATT AO will ensure that all required documents are included in the closing package. The ATT AO is ultimately responsible for the accuracy and completeness of the Form 14298, including the one-year statute date. The ATT AO will electronically transmit the closing package to the CTF using the secure server. After the CTF acknowledges receipt of the package, the ATT AO will return the file to Laguna Niguel APS.

- (9) See IRM 8.19.13.3.16 for instructions for closing docketed cases.

8.19.13.3.16  
(10-31-2013)

#### Closing Docketed Cases

- (1) All TEFRA key cases must be closed through Laguna Niguel APS. The AO should follow these closing procedures only if the AO did not use the ATT and TEFRA AO team member in working the case. If the AO used the ATT and TEFRA AO team member, then follow the procedures posted to the ATT sharepoint site. A link to the sharepoint site is found on the *Appeals TEFRA website*.
- (2) Local APS enters the following in the ACDS fields:
- ACTION: Area location – LGN (example: ship AUS-LGN)
  - TODATE: Date local APS ships the administrative file to Laguna Niguel APS
  - Local APS ships the administrative file to Laguna Niguel APS.
  - ACDS database for AO and AIMS remain open (not closed or transferred).
- (3) Laguna Niguel APS, upon receipt of the administrative file, enters the following in the ACDS fields:
- FROM DATE: Date received in Laguna Niguel APS
  - LACTION: LGN-ATT
  - LTODATE: Date given to ATT Secretary/Screeners/ATM
  - Forwards the administrative file to the Appeals TEFRA Team
- (4) The ATT performs a procedural review and will forward the administrative file to Laguna Niguel APS.



(5) Laguna Niguel APS will input the appropriate Closing Code:

- Closing Code 08-- docketed Appeals settlement
- Closing Code 10-- Counsel settled
- Closing Code 11-- dismissed for lack of jurisdiction
- Closing Code 12-- dismissed for lack of prosecution
- Closing Code 17-- tried case

(6) Laguna Niguel APS will also input the following on ACDS:

- ACTION ACKCLS & TODATE
- RevsdTax--Enter revised tax from Form 5402 (also enter PropdTax if not previously entered); if the Form 5402 does not contain the revised tax, have the ATT compute the amount using Exhibit 8.19.10–1.

**Caution:** The revised tax is not actually assessed against the partnership and should not be entered on Form 5403.

(7) See IRM 8.20.7 for instructions in completing Form 5403; in addition, enter “TEFRA Key Case Closing” in the Special Handling section.

(8) After the key case CTF has input the one-year statute date on PCS for all direct partners and has released the AIMS “H” freeze, APS may close the case from AIMS *unless it has a PICF Code of 4 or 5*. The case should not be sent to the key case CTF unless it has a PICF Code of 4 or 5.

(9) *If the case has a PICF Code of 4 or 5*, it is a partner in another TEFRA partnership and has to be sent to the key case CTF. Instructions for identifying the key case CTF may be found on the *Appeals TEFRA website*. Instructions for sending the case to the key case CTF are as follows:

- a. Prepare Form 5403 following partial procedures. In item A, Special Handling Instructions, write “TEFRA Linkage – After Partial Closing, Forward to CTF.”
- b. Update the AIMS database to status 34. Update the PBC to 295 (for the Brookhaven CTF) or 398 (for the Ogden CTF).
- c. Forward the administrative file via Form 3210, to the appropriate CTF. Ensure that a copy of the input Form 5403 is attached to the face of the return. The CTF will place the file in suspense awaiting the outcome of the TEFRA examination.

(10) Laguna Niguel APS will ensure that copies of the following documents are in the administrative file before it is closed:

- a. Appeals Form 4605-A
- b. Appeals Form 886-Z
- c. Appeals Case Memorandum
- d. Affected item Appeals Case Memorandum (if applicable)
- e. Form 5402
- f. Form 5403 (original)
- g. All agreement forms or closing agreements for partners who agreed (Tax Court Rules 248(b) or 248(c))
- h. FPAA issued to the TMP
- i. Certified mailing list
- j. Tax Court petition
- k. Dated/entered decision (or motion and decision) for each court
- l. Counsel Settlement Memorandum (if applicable)

- m. Stipulation signed by the TMP (Tax Court Rule 248(a) only)
- n. Form 9724 (Counsel Memorandum), if applicable
- o. Acknowledged Forms 3210

8.19.13.4  
(10-31-2013)  
**Department of Justice  
Cases**

- (1) The procedures for attorneys to notify the appropriate CTF of a partner-level settlement agreement, or a decision or dismissal in a U.S. District Court or the Court of Federal Claims TEFRA partnership case are found in IRS Chief Counsel Notice 2011–011.
- (2) When a decision is final for a case for which an FPAA was issued by Appeals and which was petitioned to a U. S. District Court or the U. S. Court of Federal Claims (or a case appealed from these courts), the Department of Justice may return the case to Appeals through Counsel if assistance is needed to complete the processing of the partnership items of the partners and to process the penalties and affected items. The cases should be sent to Laguna Niguel APS. The ATT will assist, if necessary, in preparing the cases for closing.
- (3) When the decision becomes final (60 days after the Court entered the decision), Laguna Niguel APS will:
  - a. Create a new workunit on ACDS using the information from the previously closed workunit.
  - b. Update the statute on ACDS to reflect the one-year statute date. In computing the one-year statute date, one day should be subtracted from the date that is one year from when the decision became final.
 

**Example:** If the decision was entered by the U. S. Court of Federal Claims on August 31, 2009, the one-year statute date should be computed as follows: August 31, 2009 + 60 days = October 30, 2009 + 1 year = October 30, 2010 - 1 day = October 29, 2010.
  - c. Return the case to the ATT to prepare and electronically transmit a closing package to the CTF using the secure server. Form 14298, Appeals TEFRA Electronic Notice Package Check Sheet, is the cover sheet the ATT uses to electronically transmit documents to the CTF.
- (4) When the decision is final, the one-year assessment period begins.
- (5) If other documents are needed (for example, Form 4605-A and Form 886-Z), the ATT will submit a Request for Audit Work as provided in IRM 8.19.13.3.2.
- (6) The TCS will prepare the documents requested as provided in IRM 8.19.13.3.3 and begin preparing the closing package as provided in IRM 8.19.13.3.4. If no other documents are being prepared, the ATT AO is responsible for preparing the closing package and the Form 14298.

**Note:** It is not necessary to prepare a new Form 5402. The Form 5402 that was previously prepared is sufficient.

- (7) In addition to a copy of the dated decision or order, the following documents should be marked "Information Only-Do Not Mail to Taxpayer" and included in the closing package:
  - Form 5402
  - DOJ Instructional Memorandum

- Form 4605-A
- Form 886-Z

(8) The ATT will enter the one-year statute date on the Form 14298. In computing the one-year statute date, one day should be subtracted from the date that is one year from when the decision became final (see Example above).

**Note:** If Counsel sends the administrative file to Appeals before the decision has become final, the ATT will not close the case to Laguna Niguel APS until the decision has become final unless instructions from the counsel attorney provide otherwise.

**Note:** The case should not be on AIMS as AIMS should have been closed once the petition was filed in accordance with the procedures in IRM 8.19.12.13.3. Accordingly, if the file is returned by the Department of Justice, it can simply be closed to Files.

**Caution:** The ATT should ensure that any instructions to the key case CTF for issuing affected item reports or affected item notice of deficiency are included on the Form 3210.

(9) The ATT AO will ensure that all required documents are included in the closing package. The ATT is ultimately responsible for the accuracy and completeness of the Form 14298, including the one-year statute date. The ATT AO will electronically transmit the closing package to the CTF using the secure server. After the CTF acknowledges receipt of the package, the ATT AO will return the file to Laguna Niguel APS.

(10) If the case is not on AIMS, then it can be closed to files.

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## Exhibit 8.19.13-1 (10-31-2013)

## Form 3210 - Decision Entered - Closing Docketed TEFRA Key Case

<b>Document Transmittal</b>		To <i>(Show complete and correct address)</i>  Key Case CTF		<b>Release Date</b>		Page 1 of	
				Transmittal Code <i>(From-Serial no.-To)</i>			
				Numbered		Unnumbered	
<b>Document Identification</b>				Remarks Closing docketed TEFRA Partnership Decision entered Appeals is final closing key case		<b>Shipment Information</b> Con- tainer No. Rec'd (✓)	
Quantity	Code or Type	<b>Instructions:</b> When transmitting reports, please show the type of report and the period covered. For other items, show identifying information such as blocks, DLN, EIN, the last four digits of the SSN, etc.					
		<b>Name of Partnership:</b> <b>EIN:</b> <b>MFT:</b> <b>Form:</b> <b>Tax Years:</b> <b>One-Year Assessment Date:</b>					
		<b>ENCLOSURES:</b> Copy of decision (or order) dated: _____ Copy of signed stipulation (if applicable) 1 small return envelope					
		The following copies of forms are marked "Information Only – Do Not Mail to Taxpayer": <ul style="list-style-type: none"> <li>• Form 5402</li> <li>• Appeals Case Memorandum/Counsel Settlement Memorandum, if applicable</li> <li>• Form 4605-A</li> <li>• Form 886-Z</li> </ul>					
		<b>NECESSARY ACTIONS:</b> (1) Return a copy of Form 3210 within 10 days in the envelope. (2) Input one-year assessment date. (3) Process all remaining partners per the decision. (4) (Include instructions to the CTF for handling penalties and other affected items, if applicable). (5) Release "H" freeze. (6) Section 6404(g) Notice Date: _____ Section 6404(g) Notice: <u>(Type of Notice)</u>					
From <i>(Originator must supply complete return address below)</i>          APPEALS OFFICE				Releasing official <i>(Signature and title)</i>  Appeals Officer or Releasing Official			
				Received and verified <i>(Signature and title)</i>			
				Originator Telephone Number			
				Date acknowledged >			

Form 3210 (Rev. 4-2010)

Department of the Treasury  
Internal Revenue Service

**Exhibit 8.19.13-2 (10-31-2013)**  
**Documents Required - Rule 248**

## DOCUMENTS REQUIRED - RULE 248

RULE	DOCUMENTS REQUIRED	SIGNATURES REQUIRED
<p><b>248(a)*</b></p> <p>TMP - agrees to bind all parties</p> <p>PARTICIPATING PARTNERS ALL OTHER PARTIES</p>	<p>Stipulated decision consenting to entry of decision (decision and stipulation in same document)</p>	<p>TMP (not his counsel) and counsel for commissioner</p> <p>Bound by TMP's signature Bound by TMP's signature</p>
<p><b>248(b)</b></p> <p>PARTICIPATING PARTNERS: all must agree to settlement or not object**</p> <p>ALL OTHER PARTIES</p> <p>IF OBJECTION:</p> <p>TMP (not participating partner)</p> <p>All other parties</p>	<p>Local counsel files motion for entry of decision with proposed form of decision (also 3 &amp; 4 below)</p> <p style="text-align: center;">↓</p> <div style="border: 1px solid black; padding: 5px; text-align: center; margin: 10px auto; width: 60%;"> <p><b>Within 3 days of filing</b></p> </div> <p style="text-align: center;">↓</p> <p>Local counsel will serve on TMP a certificate showing date motion filed.</p> <p style="text-align: center;">↓</p> <div style="border: 1px solid black; padding: 5px; text-align: center; margin: 10px auto; width: 60%;"> <p><b>Within 3 days of receipt</b></p> </div> <p style="text-align: center;">↓</p> <p>TMP will serve on all parties -</p> <ol style="list-style-type: none"> <li>1. Copies of proposed decision</li> <li>2. Commissioner's motion</li> <li>3. Commissioner's certificate</li> <li>4. Rule 248</li> </ol> <div style="border: 1px solid black; padding: 5px; text-align: center; margin: 10px auto; width: 60%;"> <p><b>Within 60 days of Commissioner's motion</b></p> </div> <p style="text-align: center;">↓</p> <div style="border: 1px solid black; padding: 5px; text-align: center; margin: 10px auto; width: 60%;"> <p>Motion to intervene</p> <p>Motion to participate</p> </div>	<p>No signatures on decision</p> <p>TMP's signature</p> <p>Parties signatures</p>
<p><b>IF NO OBJECTION:</b></p> <p>TMP (not participating partner)</p> <p>All other parties</p>	<p>None – court enters decision</p> <p>None – court enters decision</p>	

\* Unlikely this option will be used frequently. TMP may, but need not, be a participating partner.

\*\* Request a signed Form 870-P(AD) or Form 870-PT(AD) (depending on the tax year at issue) to verify participating partner(s) do(es) not object.

## Exhibit 8.19.13-2 (Cont. 1) (10-31-2013)

## Documents Required - Rule 248

RULE	DOCUMENTS REQUIRED	SIGNATURES REQUIRED
<b>248(c)</b>  PARTICIPATING PARTNER: Agrees to settlement	Notice of settlement agreement OR Notice of consistent settlement  Filed with court	No signature of Participating Partner Local counsel
PARTICIPATING PARTNER AND ANY NON-PARTICIPATING PARTNER: agrees to settlement  <div data-bbox="261 726 493 926" style="border: 1px solid black; padding: 5px; width: fit-content;">             Within 7 days of acceptance by either a Participating or Non-Participating partner           </div>	<div data-bbox="773 600 954 678" style="text-align: center;">             Form 870-P(AD)              OR              Form 870-PT(AD)           </div> <div data-bbox="643 726 1078 783" style="border: 1px solid black; padding: 5px; text-align: center;"> <b>Commissioner serves on TMP</b> </div> <div data-bbox="719 831 1027 936" style="text-align: center;">             a. Identity of party or parties              b. Year or years              c. Terms of settlement              d. Date settlement entered into           </div> <div data-bbox="646 1003 1083 1056" style="border: 1px solid black; padding: 5px; text-align: center;"> <b>Within 7 days of receipt</b> </div> <div data-bbox="639 1094 1062 1140" style="text-align: center;">             TMP will serve on all parties who have not settled:           </div> <div data-bbox="776 1192 959 1220" style="text-align: center;">             Copy of statement           </div>	Partner's signature AND Commissioner's signature
All unagreed parties within 60 days of acceptance of settlement may request consistent settlement	If party(ies) agree(s) -  Form 870-P(AD) OR Form 870-PT(AD) marked "CONSISTENT SETTLEMENT"	Parties who agree

**Exhibit 8.19.13-3 (10-31-2013)****Sample Package Provided to TMP under Rule 248(c)(2)****Sample Package Provided to TMP Under Rule 248(c)(2)****INTERNAL REVENUE SERVICE****Date:** July 15, 2008Tax Matters Partner  
Daffodil Partnership  
987 Fourth Place  
Anytown, USA 01234**Department of the Treasury****Person to Contact and ID#:**

Jean Tulip, Badge Number X0-505XZ

**Telephone Number:**

(000) 123-1234

**Partnership:**

Daffodil Partnership

**Partnership EIN:**

D2-0123456

**Docket No.:**

12345-XX

**Year Involved:**

December 31, 2004

Dear Tax Matters Partner:

Enclosed is a statement showing partners in the above named partnership that have signed settlement agreements. These agreements have been accepted as of the date of this letter. The terms of the settlement are shown in the schedule of adjustments attached to the statement.

Rule 248(c)(2) of the Rules of Practice and Procedure of the United States Tax Court requires you to furnish a copy of this material along with a copy of Tax Court Rule 248 to all parties to the action (partners) within seven days after receiving this letter.

Sincerely yours,

Jean Tulip  
Appeals Officer

Enclosure



**Exhibit 8.19.13-3 (Cont. 1) (10-31-2013)****Sample Package Provided to TMP under Rule 248(c)(2)****Sample Package Provided to TMP Under Rule 248(c)(2)****STATEMENT OF SETTLEMENT AGREEMENTS  
PROVIDED UNDER TAX COURT RULE 248(c)(2)**

Partnership: Daffodil Partnership

Docket No.: 12345-XX

Date Accepted: July 15, 2008

<u>Name of Party</u>	<u>Tax Year</u>	<u>Date Settlement Offered &amp; Terms*</u>
1. Thomas Geranium	2004	June 4, 2008
2. Nancy Dianthus	2004	June 4, 2008
3. Eric Salvia	2004	June 4, 2008
4. Mary Phlox	2004	June 4, 2008

\*Schedule of Adjustments attached which sets out the terms of each agreement. Since the allocation of items among the partners is not at issue, the allocation is not shown.

**Exhibit 8.19.13-3 (Cont. 2) (10-31-2013)****Sample Package Provided to TMP under Rule 248(c)(2)****Sample Package Provided to TMP Under Rule 248(c)(2)**

Department of the Treasury - Internal Revenue Service			
Settlement Agreement For Partnership Items and Partnership Level Determinations as to Penalties, Additions to Tax and Additional Amounts			
SCHEDULE OF ADJUSTMENTS			
NAME OF PARTNERSHIP	TAX YEAR(S) ENDED		
Daffodil Partnership	12/31/2004		
EIN: D2-0123456			
DETAIL OF ADJUSTMENTS TO ORDINARY INCOME			
(1) Depreciation Expense			
It is determined the partnership overvalued its depreciable basis for its energy property by \$900,000. The correct basis is \$100,000 and not \$1,000,000 reported on the 2004 Form 1065. The partnership depreciation expense has been recomputed as shown in Exhibit A.	\$90,000.00		
(2) Management Fee	\$25,000.00		
(3) Amortization Expense			
It is determined the partnership may not deduct management fees reported of \$25,000. The fee was paid to organize the partnership and may not be deducted as a trade or business expense. Pursuant to the partnership election, the fee may be amortized over 60 months beginning January 1, 2004.	\$(5,000.00)		
TOTAL ADJUSTMENTS TO ORDINARY INCOME	\$110,000.00		
OTHER ADJUSTMENTS			
A. (4) Basis of Energy Property			
(1) ADJUSTMENT	\$900,000.00		
(2) AS REPORTED	\$1,000,000.00		
(3) CORRECTED	\$100,000.00		
B.			
(1) ADJUSTMENT			
(2) AS REPORTED			
(3) CORRECTED			

**REMARKS:**

4. It is determined that the partnership's basis in energy property is \$100,000 rather than \$1,000,000. Accordingly, the basis in energy property is reduced by \$900,000.

5. Negligence penalty will be assessed.

Partner level defenses to the negligence penalty may be raised in a refund forum after the penalty is assessed and paid.

**Exhibit 8.19.13-3 (Cont. 3) (10-31-2013)****Sample Package Provided to TMP under Rule 248(c)(2)****Sample Package Provided to TMP Under Rule 248(c)(2)****Rule 248. Settlement Agreements**

**(a) Consent by the Tax Matters Partner to Entry of Decision:** A stipulation consenting to entry of decision executed by the tax matters partner and filed with the Court shall bind all parties. The signature of the tax matters partner constitutes a certificate by the tax matters partner that no party objects to entry of decision. See Rule 251.

**(b) Settlement or Consistent Agreements Entered Into by All Participating Partners or No Objection by Participating Partners:**

(1) After the expiration of the time within which to file a notice of election to intervene or to participate under Rule 245(a) or (b), the Commissioner shall move for entry of decision, and shall submit a proposed form of decision with such motion, if—

(A) all of the participating partners have entered into a settlement agreement or consistent agreement with the Commissioner, or all of such partners do not object to the granting of the Commissioner's motion for entry of decision, and

(B) the tax matters partner (if a participating partner) agrees to the proposed decision in the case but does not certify that no party objects to the granting of the Commissioner's motion for entry of decision.

(2) Within 3 days from the date on which the Commissioner's motion for entry of decision is filed with the Court, the Commissioner shall serve on the tax matters partner a certificate showing the date on which the Commissioner's motion was filed with the Court.

(3) Within 3 days after receiving the Commissioner's certificate, the tax matters partner shall serve on all other parties to the action other than the participating partners, a copy of the Commissioner's motion for entry of decision, a copy of the proposed decision, a copy of the Commissioner's certificate showing the date on which the Commissioner's motion was filed with the Court, and a copy of this Rule.

(4) If any party objects to the granting of the Commissioner's motion for entry of decision, then that party shall, within 60 days from the date on which the Commissioner's motion was filed with the Court, file a motion for leave to file a notice of election to intervene or to participate, accompanied by a separate notice of election to intervene or a separate notice of election to participate, as the case may be. If no such motion is filed with the Court within such period, or if the Court should deny such motion, then the Court may enter the proposed decision as its decision in the partnership action. See Code Sections 6226(f) and 6228(a)(5). See also Rule 245, relating to intervention and participation, and Rule 251, relating to decisions.

**(c) Other Settlement and Consistent Agreements:** If a settlement agreement or consistent agreement is not within the scope of paragraph (b) of this Rule, then--

**Exhibit 8.19.13-3 (Cont. 4) (10-31-2013)****Sample Package Provided to TMP under Rule 248(c)(2)****Sample Package Provided to TMP Under Rule 248(c)(2)**

(1) in the case of a participating partner, the Commissioner shall promptly file with the Court a notice of settlement agreement or notice of consistent agreement, whichever may be appropriate, that identifies the participating partner or partners who have entered into the settlement agreement or consistent agreement; and

(2) in the case of any partner who enters into a settlement agreement, the Commissioner shall, within 7 days after the settlement agreement is executed by both the partner and the Commissioner, serve on the tax matters partner a statement which sets forth--

(A) the identity of the party or parties to the settlement agreement and the date of the agreement;

(B) the year or years to which the settlement agreement relates; and

(C) the terms of settlement as to each partnership item and the allocation of such items among the partners.

Within 7 days after receiving the statement required by this subparagraph, the tax matters partner shall serve on all parties to the action a copy of the statement.

Exhibit 8.19.13-4 (10-31-2013)

Rule 155 Type Computations Statement - TEFRA Partnerships

**Rule 155 Computation Statement – TEFRA Partnerships**

AP:A:AP:MF

In re: Begonia Partnership  
 First Kale Street  
 Anytown, US XX001

Docket No: \_\_\_\_\_

Adjustments to Partnership Items  
 Taxable Year Ending December 31, 2004

Ordinary, distributable net, or taxable income as reported:	\$(150,000.00)
Adjustments to income:	
Depreciation	\$50,000.00
Corrected ordinary, distributable net, or taxable income:	<u><u>\$(100,000.00)</u></u>

Other adjustments:	
Qualifying basis of energy property	
(1) Adjustment	\$(1,300,000.00)
(2) As Reported	\$2,300,000.00
(3) Corrected	<u><u>\$1,000,000.00</u></u>

The adjustments to partnership items as shown above are set forth in the attached pages \_\_\_\_\_ to \_\_\_\_\_, inclusive.

**Note to Tax Computation Specialist:** The attached pages should include a Form 4605-A (unless the case is a no change) and supporting schedules (if necessary).

