

REPRESENTATION

For Fast Track Settlement to succeed, both the taxpayer and those who have the authority to represent them and make a decision must be present. A taxpayer may use Form 2848, *Power of Attorney and Declaration of Representative* for this purpose.

CLOSING PROCEDURES

After the taxpayer, LMSB and the Appeals Official sign the Fast Track Settlement Session Report acknowledging a basis of settlement, the Appeals Official (working with both parties) will draft the appropriate settlement document to reflect the agreed upon treatment of the issue.

The taxpayer may withdraw from the Fast Track Settlement process at any time. If any issues remain unresolved, the taxpayer retains all the usual appeal rights as explained in Publication 5, *Your Appeal Rights and How To Prepare a Protest If You Don't Agree*.

EARLY REFERRAL OPTION

An alternative to Fast Track Settlement is the use of Early Referral to Appeals. The Early Referral option is best utilized relatively early in the examination process when there is one or more developed, unagreed issues, and there are other undeveloped examination issues. The developed, unagreed issues are referred to Appeals, while the other issues in the case continue to be developed in LMSB. The early resolution of a key issue may encourage taxpayers and the Service to agree on other issues in the case. Regular Appeals procedures apply, including taxpayer conferences. For complete information, see Revenue Procedure 99-28, available on the IRS Appeals Website, <http://www.irs.gov/appeals>.

For further information, visit the LMSB Internet Web site:

- Tax Information for Corporations, www.irs.gov/businesses/corporations/index.html.
- Fast Track Settlement, <http://www.irs.gov/businesses/article/0,,id=111879,00.html>

Appeals Internet Web site:

- Appeals at a Glance
<http://www.irs.gov/appeals>

Other Useful Resources

- IRS website: www.irs.gov
- Taxpayer Advocate Service:
1-877-777-4778
- IRS Toll Free: 1-800-829-1040
- Forms and Publications:
1-800-TAX-FORM

Contact Information

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FTS

Fast Track Settlement

A Process for Prompt Resolution Of Large & Mid-Size Business Tax Issues

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INTRODUCTION

Fast Track Settlement (FTS) offers taxpayers a way to resolve audit issues during the examination process in less than 120 days. Working with Large and Mid-Size Business Division (LMSB) and Appeals, taxpayers can utilize the settlement authority and mediation skills of Appeals while shortening their overall experience with the Internal Revenue Service. Successful from the taxpayer's perspective, FTS reduces the combined LMSB-Appeals process time by at least two years.

Both the LMSB and Appeals organizations are committed to supporting the Service-wide initiative of reducing the time it takes for taxpayers to complete the examination and resolution processes. Fast Track Settlement is key to accomplishing this goal.

WHO CAN USE FTS?

FTS is generally available for all cases within LMSB Compliance jurisdiction and works best when five or fewer issues are to be considered during the process. FTS can also be effectively used in LMSB's new Compliance Assurance Process (CAP) to assist in resolving disputed issues before the tax return is filed. When it is in the best interest of tax administration, only one issue may be accepted into FTS while the audit continues. Cases outside LMSB's jurisdiction (from other IRS Operating Divisions) may also qualify for Fast Track Settlement; see section 3.02 of Revenue Procedure 2003-40 (available on the IRS Website, <http://www.irs.gov/pub/irs-drop/rp-03-40.pdf>)

FAST TRACK SETTLEMENT IS AVAILABLE FOR MOST:

- Factual and legal issues
- Listed transactions
- Appeals & Compliance Coordinated Issues
- Issues requiring hazards of litigation settlement

ADVANTAGES

The advantages of Fast Track Settlement include:

- Quicker resolution of audit issues (120 days or less)
- No need for a formal protest to request FTS
- A one-page application
- Delegation Order 236, www.irs.gov/pub/irs-utl/do_236.pdf, can be utilized in the next audit cycle
- Consideration of hazards of litigation
- No 'hot' interest under IRC 6621
- Withdrawal from the process at any time
- Retention of all traditional appeal rights
- One tax computation
- Case closes agreed in LMSB

EXCLUDED CASES / ISSUES

Fast Track Settlement is not available in certain situations, for example, issues in your case:

- Designated for litigation;
- For which you have submitted a request for Competent Authority (or simultaneous Appeals/Competent Authority) assistance;
- That are "whipsaw" issues, i.e., issues for which resolution with respect to one party might result in inconsistent treatment in the absence of the participation of another party;
- Not consistent with sound tax administration; or
- Excluded from the Fast Track Settlement process by a Chief Counsel Notice, or equivalent publication.

GETTING STARTED

When it appears that the taxpayer may not agree with issues raised during the examination process, the taxpayer should have an early discussion with the LMSB Team Manager on possible use of the FTS process. Prior to issuance of Form 5701 (Notice of Proposed Adjustment), the LMSB team and the taxpayer should agree on all the facts and circumstances

and exhaust LMSB resolution authority on the issues. Only after issuance of a Form 5701, and the receipt of a written response from the taxpayer, either the taxpayer or the LMSB Team Manager (i.e. the parties) may suggest participation in the FTS program. If the other party agrees, the parties may contact the LMSB or Appeals Fast Track contacts (see FTS contacts at the end of this publication) to determine if FTS is appropriate. To apply, the parties must complete and execute an Application for Fast Track Settlement. Both the Form 5701 and the taxpayer's written response will be part of the package to assist the Fast Track contacts to understand the issue(s) in dispute, determine if the issue(s) is sufficiently developed to permit resolution and decide to accept into the program.

If the issue(s) is not ready for FTS, the LMSB and Appeals contacts will advise what additional development might improve chances for a successful FTS outcome. They may also suggest other alternative resolution processes.

APPEAL RIGHTS & EX PARTE COMMUNICATIONS

When the issues are resolved, or a decision is made that a resolution cannot be reached, the case will be closed promptly. If the case is not settled, the taxpayer retains all traditional appeal rights. Appeals will not prepare an Appeals Case Memorandum, and the administrative file will be returned to LMSB without Appeals' notes. If any issues remain unresolved at the conclusion of the Fast Track Settlement process, the taxpayer retains all of its otherwise applicable appeal rights. Caution: Written documents disclosed by the taxpayer during the Fast Track process become available to LMSB and may be used in their determination.

The prohibition against ex parte communications between Appeals Officers and other Service employees provided by section 1001 (a) of the Internal Revenue Service Restructuring and Reform Act of 1998 does not apply to the communications arising in Fast Track Settlement because Appeals personnel, in facilitating an agreement between the taxpayer and LMSB, are not acting in their traditional Appeals settlement role.