

Introduction

Fast Track Settlement (FTS) offers taxpayers a way to resolve audit issues during the examination process in 120 days or less. Working with the Large Business and International Division (LB&I) and Appeals, taxpayers can use the settlement authority and mediation skills of Appeals while shortening their overall experience with the Internal Revenue Service. FTS reduces the combined LB&I-Appeals process time significantly.

LB&I 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. FTS is key to accomplishing this goal.

Who can use Fast Track Settlement?

FTS is generally available for all cases within LB&I's Compliance jurisdiction and works best when unagreed issues are limited in number. FTS can also be effectively used in LB&I's 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 LB&I's jurisdiction (from other IRS Operating Divisions) may also qualify for FTS.

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 4-24 (formerly 236, Rev.3) can be used 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 LB&I

Excluded Cases / Issues

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

- Designated for litigation;
- For which the taxpayer has 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 FTS process by a Chief Counsel Notice, or equivalent publication.

Getting Started

When it appears there may be unagreed issues raised during the examination process, the taxpayer and LB&I Team Manager should have an early discussion regarding possible use of the FTS process. Prior to issuance of Form 5701 (Notice of Proposed Adjustment), the LB&I team and the taxpayer should agree on all the facts and

circumstances and exhaust LB&I resolution authority on the issues. After issuance of a Form 5701, and the receipt of a written response from the taxpayer, either the taxpayer or the LB&I Team Manager (i.e. the parties) may suggest participation in the FTS program. If the other party agrees, the parties may contact the LB&I FTS Coordinator or the Appeals FTS Program Manager to determine if FTS is appropriate. To apply, the parties must complete and execute an Application for FTS. Both the Form 5701 and the taxpayer's written response will be part of the application package to help the FTS Program Manager understand the issue(s) in dispute, determine if the issue(s) is sufficiently developed to permit resolution and accept the application into the FTS program.

If the issue(s) is not ready for FTS, the LB&I FTS Coordinator and Appeals FTS Program Manager will advise what additional development might improve the chances for a successful FTS outcome. They may also suggest other Alternative Dispute 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 or issue 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 LB&I without Appeals' notes. Caution: Written documents disclosed by the taxpayer during the FTS process become available to LB&I and may be used in its determination.

The prohibition against ex parte communications between Appeals Officers and other Service employees pursuant to section 1001 (a) of the Internal Revenue Service Restructuring and Reform Act of 1998 does not apply to the communications arising in FTS because Appeals is facilitating an agreement between the taxpayer and LB&I, and not acting in its traditional Appeals role.

Representation

For FTS to succeed, both the taxpayer and those who have the authority to represent the taxpayer 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, LB&I and the Appeals Official sign the FTS 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 FTS process at any time. If any issues remain unresolved, the taxpayer retains all traditional 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 FTS is the 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 LB&I. 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 <http://www.irs.gov/businesses/article/0,,id=180746,00.html>.

For further information, visit the LB&I 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

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Fast Track Settlement



*A Process for
Prompt Resolution of
Large Business and
International Tax Issues*