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SB/SE Fast Track Settlement

https://www.irs.gov/irb/2017-14_IRB#RP-2017-25

Other Useful Resources:

IRS website
www.irs.gov

Tax Information for Corporations
<https://www.irs.gov/corporations>

Tax Information for Individuals
<https://www.irs.gov/individuals>

Taxpayer Advocate Service
<https://www.irs.gov/taxpayer-advocate>
1-877-777-4778

IRS Toll Free
1-800-829-1040

Forms and Publications
1-800-TAX-FORM

Taxpayer Bill of Rights (TBOR)

Visit **IRS.gov** and search for **Publication 1**
<https://www.irs.gov/taxpayer-bill-of-rights>



Fast Track Settlement

A Process for Prompt Resolution Of
Small Business Self Employed Tax Issues



Small Business/Self Employed (SB/SE) Fast Track Settlement (FTS) offers taxpayers a way to resolve audit issues during the examination process and is designed to be completed within 60 days of acceptance of the FTS Application in the IRS Independent Office of Appeals. FTS may reduce a taxpayer's combined SB/SE and Appeals audit process time by at least one year.

→ Eligible Cases/Issues

SB/SE is a voluntary process and is generally available for all cases under the jurisdiction of SB/SE with no regard for dollar amount. To be eligible for FTS the issues must be fully developed; the taxpayer must provide a brief, concise and soundly written response to the IRS's position; and there must be a limited number of issues capable of being resolved within the 60 day goal.

If any issue is determined to be ineligible for FTS, all issues in the case are ineligible for FTS.

FTS is appropriate for factual and legal issues, and issues requiring a settlement based on the hazards of litigation.

→ Excluded Cases/Issues

Fast Track Settlement is not available for the following cases/issues:

- Collection Appeals Program, Collection Due Process, Offer-In-Compromise and Trust Fund Recovery cases;
- Correspondence examination cases worked solely at a Campus or a Service Center;
- Cases in which the taxpayer did not act in good faith during the audit process, such as, but not limited to, cases in which the taxpayer failed to cooperate or unduly delay the audit process;
- Issue docketed in any court;
- Issues precluded from settlement by previous closing agreements, res judicata, or controlling Supreme Court precedent;
- Tax Equity & Fiscal Responsibility Act (TEFRA) partnership cases;
- Issues designated for litigation;
- Issues for which a request for Competent Authority was submitted;
- Issues for which the taxpayer has requested the simultaneous Appeals/Competent Authority procedure;
- "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;
- Issues not consistent with sound tax administration;
- Issues that have been identified in a Chief Counsel Notice, or equivalent publication; or
- Issues outside SB/SE's jurisdiction.

→ Advantages

The advantages of Fast Track Settlement include:

- Quicker resolution of audit issues
- No need for a formal protest
- A one-page application
- Consideration of the hazards of litigation
- Withdrawal from the process with a written notice
- Retention of all traditional appeal rights

Working with the SB/SE and Appeals divisions, taxpayers can utilize the mediation skills and settlement authority of Appeals and shorten their overall experience with the Internal Revenue Service.

Both SB/SE and Appeals are committed to reducing the time it takes taxpayers to complete the examination and resolution processes. FTS is key to accomplishing this goal.

→ Getting Started

When it appears a taxpayer may not agree with issues raised during the examination process, the SB/SE examiner should discuss the possible use of FTS with the taxpayer. However, FTS will not be offered until after a group manager's conference is held.

The taxpayer, the examiner, or the SB/SE Group Manager may initiate the FTS process at any time after an issue has been fully developed but preferably before a 30-day letter or equivalent is issued. In any event, the FTS process must be initiated prior to the issuance of a 90-day letter. The taxpayer, the examiner and the SB/SE Group Manager should agree on all the facts and circumstances and a managerial conference with the examiner's manager should be held prior to submitting the FTS application. The taxpayer and the examiner must have raised all issues and claims, and the taxpayer presented all documentation prior to the submission of the FTS application to the IRS Independent Office of Appeals.

→ Applying for FTS

To apply to the FTS program:

1. The taxpayer and examiner must jointly complete Form 14017, Application for Fast Track Settlement.
2. The examiner will process the Application through the SB/SE Group Manager.
3. SB/SE Group Manager will determine if the case is eligible for FTS and if so, will forward the Application Package to the local Appeals Team Manager along with the examiner's work papers and the taxpayer's written response. If the SB/SE Group Manager determines that the case is not eligible for FTS, he/she will inform the taxpayer and provide the reason for denial.
4. The Appeals Team Manager will review the Application Package, determine if FTS is appropriate, and make the decision whether to accept the case into the program. If the case is not ready for FTS, the Appeals Team Manager will advise SB/SE and return the Application.

If the issue is not accepted for inclusion in SB/SE FTS, the taxpayer will be informed of the basis for this decision.

A taxpayer may not appeal a decision to reject the FTS application.

Other dispute resolution opportunities, including 30-day letter procedures contained in IRS Publication 5, Your Appeal Rights and How to Prepare a Protest if You Don't Agree, may be discussed.

→ Ex Parte Communications

The prohibition against ex parte communications between Appeals Officers and other IRS 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 SB/SE, are not acting in their traditional Appeals settlement role. See Revenue

SB/SE FTS may not be the appropriate dispute resolution process for all cases involving SB/SE taxpayers. The examiner, Group Manager and the taxpayer will evaluate the individual circumstances to determine if this process meets their needs.

Procedure 2012-18 for rules on ex parte communications.

→ Role of the Fast Track Settlement Appeals Official

The role of the FTS Appeals Official is to serve as a neutral party using dispute resolution techniques to facilitate an agreement between the IRS and the taxpayer. The FTS Appeals Official may propose settlement terms for all issues and may consider settlement terms proposed by either party. In order for the FTS session to be successful, all decision makers must participate in the session so a mutually agreeable determination can be reached.

If the parties reach an agreement, they will sign Form 14000, Fast Track Session Report, to reflect the agreed upon treatment of the issue. The SB/SE representative and the FTS Appeals Official will use established issue or case closing procedures and prepare the applicable agreement forms, including the preparation of Form 906 Closing Agreement on final Determination covering Specific Matters, if appropriate.

→ Appeal Rights

If any issue remains unresolved at the conclusion of the FTS process, the taxpayer retains all of the otherwise applicable appeal rights as explained in Publication 5, Your Appeal Rights and How To Prepare a Protest If You Don't Agree.

Post Appeals mediation (PAM) is not available for any issue considered during the FTS process if the parties fail to resolve the issue or if either party withdraws after the start of the process.

There is no right to appeal a determination that a case is ineligible for or excluded from the FTS process.

→ Representation

Although not required, a taxpayer may be represented at the FTS session. A Form 2848, Power of Attorney and Declaration of Representative, is used by a taxpayer to appoint an eligible person to represent the taxpayer before the IRS.

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

→ Confidentiality

The FTS process is confidential and employees involved in the process are subject to confidentiality and disclosure provisions of applicable law. The taxpayer or the IRS retains the right to withdraw throughout the FTS process. A party wishing to withdraw should provide written notice to the FTS Appeals Official and the other party.