



INDEPENDENT OFFICE
OF APPEALS

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, DC 20224

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MEMORANDUM FOR ALL IRS INDEPENDENT OFFICE OF APPEALS
EMPLOYEES

FROM: Patrick E. McGuire */s/ Patrick E. McGuire*
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SUBJECT: Revised Guidance for Taxpayer First Act (TFA) Access to
Case Files

This memorandum supersedes interim guidance (IG) AP-08-0622-0006, Revision to Taxpayer First Act (TFA) Access to Case Files and provides updated guidance for IRS Independent Office of Appeals (Appeals) employees regarding TFA Case File Access provisions. Please ensure that this information is distributed to all affected employees within your organization.

Purpose: This memorandum informs Appeals employees of the requirement to provide “specified taxpayers,” as described in Attachment 1, access to the nonprivileged portions of their case file prior to their Appeals conference per Internal Revenue Code (IRC) Section 7803(e)(7). It provides guidance for determining whether a taxpayer is a “specified taxpayer,” and procedures for offering and providing case file access and documenting compliance with IRC 7803(e)(7), Access to Case Files. This memorandum:

- Explains case file actions related to TFA case file access provisions.
- Explains how to determine if a taxpayer is entitled to case file access under IRC 7803(e)(7).
- Explains how to properly document the Case Activity Record (CAR) with actions related to TFA case file access, including the use of 2 new sub-action codes; FA-NST, not a specified taxpayer, and FA-CPT, request complete.
- Assigns primary responsibility for scanning/copying and redacting case files to the Shared Team of Administrative and Redaction Support (STARS).
- Requires Appeals Technical Employees (ATEs) to submit a STARS service request for scanning/copying and redacting files, when taxpayers request access to their case file or documents, except under limited, impractical circumstances as explained in the attachments to this memorandum.

Background/Source(s) of Authority: The TFA was signed into law on July 1, 2019, and amended IRC 7803, adding [IRC 7803\(e\)\(7\)](#), Access to Case Files. This provision requires that Appeals ensure "specified taxpayers," as defined in IRC 7803(e)(7)(C), are provided access to the nonprivileged portions of the case file on record regarding the disputed issues (other than documents provided by the taxpayer to the Internal Revenue Service) no later than 10 calendar days before the date of their scheduled conference. Appeals established the procedures contained in this memorandum to comply with the statute and document compliance.

Procedural Change: During initial case review, the ATE will determine if the taxpayer is a "specified taxpayer," and document the CAR with Case Activity Record and Automated Timekeeping System (CARATS) Code FA-TFA if the taxpayer is a "specified taxpayer" or FA-NST if the taxpayer is not a "specified taxpayer."

ATEs will inform "specified taxpayers" of their right to case file access during initial contact with the taxpayer or representative. The ATE will document the method used to offer case file access in the CAR and attach a copy of any letter offering case file access to the case in ACDS.

If the "specified taxpayer" or their representative requests access, the ATE will provide the file to them at least 10 calendar days prior to the conference. The taxpayer or representative may elect to hold the conference sooner than 10 calendar days after receiving the file, but the conference cannot occur before they receive the file. In these instances, the ATE will ensure access no later than the date of the conference.

The ATE will use CARATS Code FA-REQ to indicate a "specified taxpayer" requested access to the file. The ATE will then request redaction services from STARS. Once the redacted case file is sent to the taxpayer, the ATE will use CARATS Code FA-CPT to indicate the taxpayer's request is complete.

Complete guidance for access to case files and specific guidance for Collection Appeals Program (CAP) cases are attached.

Effect on Other Documents: This guidance supersedes IG AP-08-0622-0006, Revision to Taxpayer First Act (TFA) Access to Case Files, and will be incorporated into IRM 8.6.1, Conference and Issue Resolution, and IRM 8.24.1, Collection Appeals Program (CAP), within two years from the date of this memorandum.

Effective Date: This guidance is effective as of the date of this memorandum.

Contact: Appeals employees may submit questions pertaining only to the Taxpayer First Act provisions to: [*AP Taxpayer First Act](#). Appeals employees can also access TFA related documents on the Appeals homepage by selecting the [Taxpayer First Act](#) link under the Guidance and Procedures tab.

Attachment(s):

- 1) New IRM 8.6.1.2.1, Access to Case Files
- 2) New IRM 8.24.1.3.1, Taxpayer Access to the Administrative File (CAP Cases)

cc: www.irs.gov

8.6.1.2.1 Access to Case Files (New)

- (1) [IRC 7803\(e\)\(7\)](#), enacted by the Taxpayer First Act (TFA), requires Appeals to ensure that “specified taxpayers” with scheduled Appeals conferences are provided access to the nonprivileged portions of their case file regarding the disputed issues (other than documents provided by the taxpayer to the IRS) at least 10 calendar days prior to their conference.

The taxpayer or representative may elect to hold the conference sooner than 10 calendar days after receiving the file, but the conference cannot occur before they receive the file. In these instances, ensure the requesting party has access to the documents **no later** than the date of the conference.

- (2) During initial review of the case and prior to contacting taxpayers or representatives to schedule initial conferences, use the table below to determine if the taxpayer meets the definition of a “specified taxpayer” per [IRC 7803\(e\)\(7\)\(C\)](#).

If the taxpayer is...	And ...	Then ...
Any type of entity	Conferences are not typically held for the type of case at issue. Example: Collection Due Process (CDP) timeliness determinations.	You do not need to determine whether the taxpayer is a “specified taxpayer” or offer case file access unless a conference is actually scheduled. Document this in the case activity record (CAR). Return to and follow these procedures once you’ve decided to offer or schedule a conference.
A natural person	AGI per the taxpayer’s original filed return for any one of the taxable years in dispute is \$400,000 or less.	The taxpayer is a “specified taxpayer.”
Not a natural person	Gross receipts per the taxpayer’s original filed return for any one of the taxable years in dispute is \$5,000,000 or less.	The taxpayer is a “specified taxpayer.”
Any type of entity	There is a substitute for return (SFR) at issue for any taxable year in dispute.	Treat the taxpayer as a “specified taxpayer.”

If the taxpayer is...	And ...	Then ...
A natural person	There is clearly no required return where AGI is reported for any taxable year in dispute, or you can reasonably conclude that the dispute is not related to a specific taxable year(s). Examples could include, but are not limited to, Freedom of Information Act (FOIA) disputes, e-file authorization disputes, and certain actions against return preparers.	The taxpayer is not a “specified taxpayer.”
Not a natural person	There is clearly no required return where gross receipts are reported for any taxable year in dispute, or you can reasonably conclude that the dispute is not related to a specific taxable year(s). Examples could include, but are not limited to, certain Estate tax or Tax Exempt and Government Entities (TE/GE) determination cases.	The taxpayer is not a “specified taxpayer.”

Note: In penalty cases, can you reasonably conclude that the penalty relates to a specific tax period? If so, use the taxpayer’s AGI or gross receipts from such tax period in determining whether the taxpayer is a “specified taxpayer.” If the penalty results in an assessment against a natural person, use the AGI from their individual income tax return. Can you reasonably conclude that the penalty does not relate to any specific taxable year? If so, the taxpayer is not a specified taxpayer. If you can’t reasonably reach a conclusion on whether the penalty relates to any specific taxable year, refer to the caution below. Document the basis for your conclusion in the CAR.

Caution: Whenever it is unclear whether the taxpayer meets the definition of a “specified taxpayer,” treat the taxpayer as a “specified taxpayer” and offer case file access. Examples could include employment tax or TFRP issues where the related income tax return is not yet due.

(3) If the taxpayer is a “specified taxpayer”:

- Offer case file access as discussed in IRM 8.6.1.2.1.1, Offering Case File Access.

- **Document the CAR by using CARATS Code FA-TFA** and state in the CAR entry that the taxpayer **meets** the definition of a “specified taxpayer” per IRC 7803(e)(7)(C).

(4) If the taxpayer is not a “specified taxpayer”:

- Do not offer case file access. Continue to work the case according to established procedures.
- **Document the CAR by using CARATS Code FA-NST** and state in the CAR entry that the taxpayer **does not** meet the definition of a “specified taxpayer” per IRC 7803(e)(7)(C).

8.6.1.2.1.1 Offering Case File Access

(1) If the taxpayer is a “specified taxpayer,” inform the taxpayer of their right to case file access during your initial contact with the taxpayer. Refer to [IRM 8.6.1.2](#), New Receipts and Initial Case Actions, for the requirements for sending initial contact letters and enclosures.

(2) Depending on the type of case, determine the appropriate method to initially contact the taxpayer or representative and inform them of their right to case file access. When you make initial contact with a “specified taxpayer” or the representative, ensure:

- Any initial contact letter sent to the taxpayer and/or representative contains the selectable paragraph that offers access to the case file.
- Any other initial correspondence scheduling a conference contains language offering access to the case file.
- Any initial contact with the taxpayer or representative by phone includes a discussion of the right to case file access and offers access to the case file.

Reminder: Document the CAR with any actions taken to offer case file access and **attach the final copy** of any letter offering case file access to the case in ACDS.

(3) A “specified taxpayer” or their representative may request access to the case file under the TFA at any point up until the initial conference. If the taxpayer requests access, ensure the requested records are provided at least 10 calendar days prior to the initial conference. The taxpayer or representative may elect to hold the conference sooner than 10 calendar days after receiving the file, but the conference cannot occur before they receive the file. In these instances, ensure the requester has access to the documents no later than the date of the conference. Reschedule the conference if necessary to meet these requirements.

(4) When scheduling initial conferences with “specified taxpayers,” allow enough time for:

- The taxpayer or representative to receive the letter,

- The taxpayer or representative to respond to you to request the file (generally 14 calendar days),
- Appeals to process the request for the file (for example, copying, redacting, etc.), and
- The taxpayer or representative to receive the case file at least 10 calendar days prior to the initial conference (by the day of the conference if the taxpayer or representative requested an expedited conference).

Note: For planning purposes, allow at least five business calendar days for mailing actions.

- (5) If a “specified taxpayer” or their representative requests access to the case file prior to the conference, contemporaneously **document the CAR using CARATS Code FA-REQ** and follow the instructions in IRM 8.6.1.2.1.2, Providing Case File Access. If the taxpayer or representative does not request access to the case file prior to the conference, **document this in the CAR** on the day of the initial conference and proceed according to established procedures.
- (6) If a “specified taxpayer” or their representative requests case file access after the conference has started, do not use CARATS code FA-REQ. This is not considered a request for case file access under the provisions of the TFA. In these instances, follow instruction from Privacy, Government Liaison & Disclosure (PGLD) to “[Respond Directly](#)” to the taxpayer’s request. For assistance with redacting documents for this type of request, submit a Shared Team of Administrative and Redaction Support (STARS) [service request](#) including the information outlined in the [request guide](#) for Respond Directly requests.
- (7) If the taxpayer is not a “specified taxpayer” and the taxpayer or representative requests the case file at any time, do not use CARATS code FA-REQ. This is not considered a request for case file access under the provisions of the TFA. Instead, follow instruction from PGLD to “[Respond Directly](#)” to the taxpayer’s request. For assistance with redacting documents for this type of request, submit a STARS [service request](#) including the information outlined in the [request guide](#) for Respond Directly requests.

8.6.1.2.1.2 Providing Case File Access

- (1) When a “specified taxpayer” or representative requests access to the case file, discuss with them the most efficient way to provide the file. Available formats are as follows:
- **EEFax**- preferred if case file 150 pages or less. 150 pages is the limit for faxes.
 - **Flash Drive (USB)** – preferred if case file is more than 150 pages and taxpayer has access to a computer.
 - **PDF file** – used for transmittal via Secure Messaging or any other authorized secure electronic communication method.

- **Hard Copy** – used as a last resort if the taxpayer or representative does not have access to a computer or an EEFax or prefers a hard copy.

(2) Case file access per the TFA includes only nonprivileged documents and/or records, whether hardcopy or electronic, related to the disputed issues. The file must include all workpapers relevant to the disputed issues. If it is an electronic case file, determine where the information you will be considering is located. This may include files from more than one location or system. Ensure that all digital records related to Compliance’s review and determination of the disputed issues are included in the files sent for redaction.

Note: Case file histories from some IRS databases, such as ICS or AMS, are not generally transferred to Appeals but ATEs may access these systems for case related information. These case file histories will be included in the case file if the originating function sends them to Appeals, or if you access them for consideration of the disputed issues. The portions of the case history you accessed must be included in the documents sent for redaction.

(3) Case file access per the TFA does not include:

- Privileged documents: Documents and/or records subject to any legal privilege preventing its discovery and/or disclosure in a legal proceeding.
- Taxpayer provided documents: Any documents submitted to the IRS by the taxpayer.

(4) Submit a STARS [service request](#) including the information outlined in the [request guide](#) for TFA File Requests.

Note: In general, you must submit a STARS request for scanning/copying and redacting the file. STARS redactors are trained in disclosure rules and regulations. However, you may redact and provide access to the file yourself in rare circumstances where the use of STARS is impractical, including, but not limited to instances when you receive a docketed case, and it is already on a trial calendar. If you redact the file yourself, attach a copy of the redacted file to the case in ACDS and include the word “redacted” in the document title. When redacting a docketed file yourself, contact the assigned counsel attorney with redaction questions. Refer to PGLD’s [Respond Directly](#) webpage for information relating to disclosure and release of case file information.

8.6.1.2.1.3 Preparing and Completing the STARS Request

(1) Creating the letters: Create a signed but undated file transmission Letter 6271 and upload it into ACDS. If the case file will be sent to the requester on a flash drive (USB), create the password and the signed but undated transmittal Letter 6270 and upload it to ACDS. Address these letters to the individual (taxpayer or representative) who requested access. The redactors will use these letters to send the case file to the requesting party.

(2) Transmitting the file to STARS: Prepare and submit the STARS [service request](#) according to the [request guide](#) and immediately send the file to the proper location and/or upload any electronic files to ACDS. Send or upload Compliance's entire case file with the redaction request. This may include paper records, electronic records, or a combination of both. See IRM 8.6.1.2.1.2(2). If you are co-located with the case processor, place the case file in an agreed drop location. If not co-located, ship the file to the address provided by the [TFA Case Routing Tool](#) on the STARS webpage. The case processor will scan/copy the file and return the file to you and upload the scanned file to ACDS. The service request will be reassigned to the lead redactor for assignment to a redaction specialist.

Note: Generally, you do not need to remove information provided by the taxpayer before sending the file to the case processor. However, if there is a large volume of information you can readily identify as provided by the taxpayer and easy to separate or label, you may remove or label this information to minimize redaction time. Examples:

Example 1: The taxpayer provided bank statements and cancelled checks contained in a separate file folder. You may remove this information prior to providing the case to the case processor.

Example 2: There is a large section of the workpapers that contains only information received from the taxpayer, but it is bound together with other workpapers. You may clip or rubber band the taxpayer provided information together and attach a note to label it as taxpayer provided.

Example 3: There is a large section of an electronic file that contains only information received from the taxpayer. You may indicate the file name and range of pages within that file that contains only taxpayer provided information on the STARS request.

(3) Redaction request complete: Once STARS redacts and sends the copy of the case file to the taxpayer or representative, you will receive a systemic email notification that the service request has been closed. The employee who redacted the file will upload a copy of the following to ACDS:

- A copy of the case file as prepared for redaction, titled "Marked for Redaction."
- A copy of the dated transmittal letters.

Note: When you use Secure Messaging or another secure electronic communication method as the delivery method, the STARS employee will also upload a copy of the redacted case file titled "Redacted" to ACDS. You will send the file(s) titled "Redacted" along with the dated transmittal letter to the requesting party through Secure Messaging or other authorized electronic communication method. Revise the date on the transmittal letter if needed to reflect the date you send the file.

(4) Confirmation of case file access: After the case file is sent to the taxpayer or representative, ensure the requesting party received the case file and has at least 10 calendar days before any scheduled conference to review the file. If the taxpayer or

representative informs you that they did not receive the case file documents, email [*AP Admin Support](#) to request that STARS resend the redacted file or, if applicable, resend the “Redacted” files to the taxpayer or representative.

- (5) Once the STARS request is complete and you’ve confirmed the requester received the files, **document the CAR using CARATS Code FA-CPT** to indicate TFA request is complete and continue to work the case according to established procedures.

IRM 8.24.1.3.1, Taxpayer Access to the Administrative File (CAP Cases) (New)

- (1) In accordance with the Taxpayer First Act (TFA) and IRC 7803(e)(7), ATEs will ensure that “specified taxpayers” have access to the nonprivileged portion of the case file on record regarding the disputed issues (other than documents provided by the taxpayer to the IRS). ATEs will note the communications with each taxpayer regarding this issue in the case activity record (CAR).
- (2) “Specified taxpayers,” as defined in IRM 8.6.1.2.1(2), are entitled to request access to the case file. If the “specified taxpayer” requests access to the case file, ensure that they are provided access no later than 10 days before the date of the scheduled conference (unless the “specified taxpayer” has elected to receive the file no later than the date of the conference).

Note: If the taxpayer meets the definition of a “specified taxpayer,” but the ATE is unable to make phone contact with the taxpayer or authorized representative to schedule a conference and provide the taxpayer with an opportunity to gain access to the case file, note this information in the case history. This should be uncommon, but it may occur since there is no acknowledgement letter associated with CAP. See IRC 7803(e)(7)(A).

- (3) Because all CAP cases are received electronically, the privileged portion of the case file will be redacted, and the non-privileged portion of the case file will be made immediately available to the “specified taxpayer” so that a conference can be held as quickly as possible (at least 10 calendar days after the taxpayer receives access to the case file). In general, the ATE must submit a Shared Team of Administrative and Redaction Support (STARS) request for scanning/copying and redacting of the file. However, in circumstances in which the use of STARS is impractical (for example, the taxpayer appears for an in-person conference and asks the ATE for a copy of a particular document from the file before the conference begins), ATEs may decide to provide access and redact the file themselves. If the ATE redacts the file, they must attach a copy of the redacted file to the case in ACDS and include the word “redacted” in the document title. STARS requests will be reassigned to the lead redactor who will expedite redaction services. No conference will be held until access to the file has been offered and provided to “specified taxpayers” that request access.

Note: ATEs redacting case files may refer to PGLD’s [Respond Directly](#) webpage for information relating to disclosure and release of case file information. [A Quick Guide to the Release of Collection Files](#) provides information on disclosure of case files, including considerations for disclosure of communications with Counsel.

- (4) If the “specified taxpayer” elects to view the case file and requests a conference sooner than 10 days from access, the ATE may hold the conference and record the taxpayer’s request in the CAR.
- (5) Our goal to resolve CAP cases within five business days from ATE receipt, as noted in IRM 8.24.1.3(4), will be extended to five business days from the end of the 10-day period if the “specified taxpayer” elects to access the file.
- (6) Below is an example of a communication with a “specified taxpayer” concerning this issue.

Example: In accordance with the Internal Revenue Code, you have the right to access the nonprivileged portion of your case file. The right to access applies to documents related to the disputed issues and does not include access to documents you previously provided to the IRS. If you want access to the nonprivileged portion of your case file, please advise me and we will schedule our conference no sooner than 10 days from your access to the file.

- (7) See IRM 8.6.1.2.1, Access to Case Files, for additional guidance and procedures.