



DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
Washington, DC 20224

SMALL BUSINESS / SELF-EMPLOYED DIVISION

December 6, 2007

SB/SE Control #: SBSE-05-1207-063  
Expiration Date: December 6, 2008  
Impacted IRM #: IRM 5.7.6.1.6 (5)

MEMORANDUM FOR DIRECTORS, COLLECTION AREA OPERATIONS

FROM: Frederick W. Schindler /s/ Frederick W. Schindler  
Director, Collection Policy

SUBJECT: Interim Guidance for Processing Untimely Protests of  
Letter 1153 (DO) Proposing Assessment of the Trust Fund  
Recovery Penalty

The purpose of this memorandum is to amend IRM 5.7.6.1.6(5) instructions for processing untimely protests of Letter 1153 (DO). These procedures are effective immediately and will be incorporated into the next revision of IRM 5.7.6.

Appeals' IRM 8.25.2.4 (4), dated 10/19/2007, states:

(a) taxpayer is not entitled to appeal the proposed Trust Fund Recovery Penalty (TFRP) if he/she **did not file** a timely appeal. If the taxpayer's appeal is untimely, Collection will assess the trust fund recovery penalty and the taxpayer will be advised to file Form 843, Claim for Refund and Request for Abatement.

Therefore, to bring IRM 5.7.6.1.6 in conformance with the Appeals' IRM, if the protest is not filed timely, do not transmit the case to Appeals. Refer to instructions contained in IRM 5.7.6.1(1) to determine whether the protest is timely.

When a protest is not filed timely, the employee handling the proposed TFRP assessment will contact the taxpayer to advise that the protest was late, that the Service will assess the TFRP, and that the taxpayer may file Form 843, Claim for Refund and Request for Abatement, once the TFRP is assessed.

Late protests received prior to the effective date of this memorandum will be accepted by Appeals for processing if the procedures in 5.7.6.1.6(5) dated 4/13/2006 have been met.

If you have any questions, please contact me, or a member of your staff may contact Terry Miliote, Senior Revenue Officer Analyst.

cc: Director, Advisory, Insolvency and Quality  
Director, Campus Compliance Operations  
Director, Specialty Programs  
Director, Appeals  
National Taxpayer Advocate  
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