



# **Pre-Filing Agreement Program**

## **Orientation Guide**



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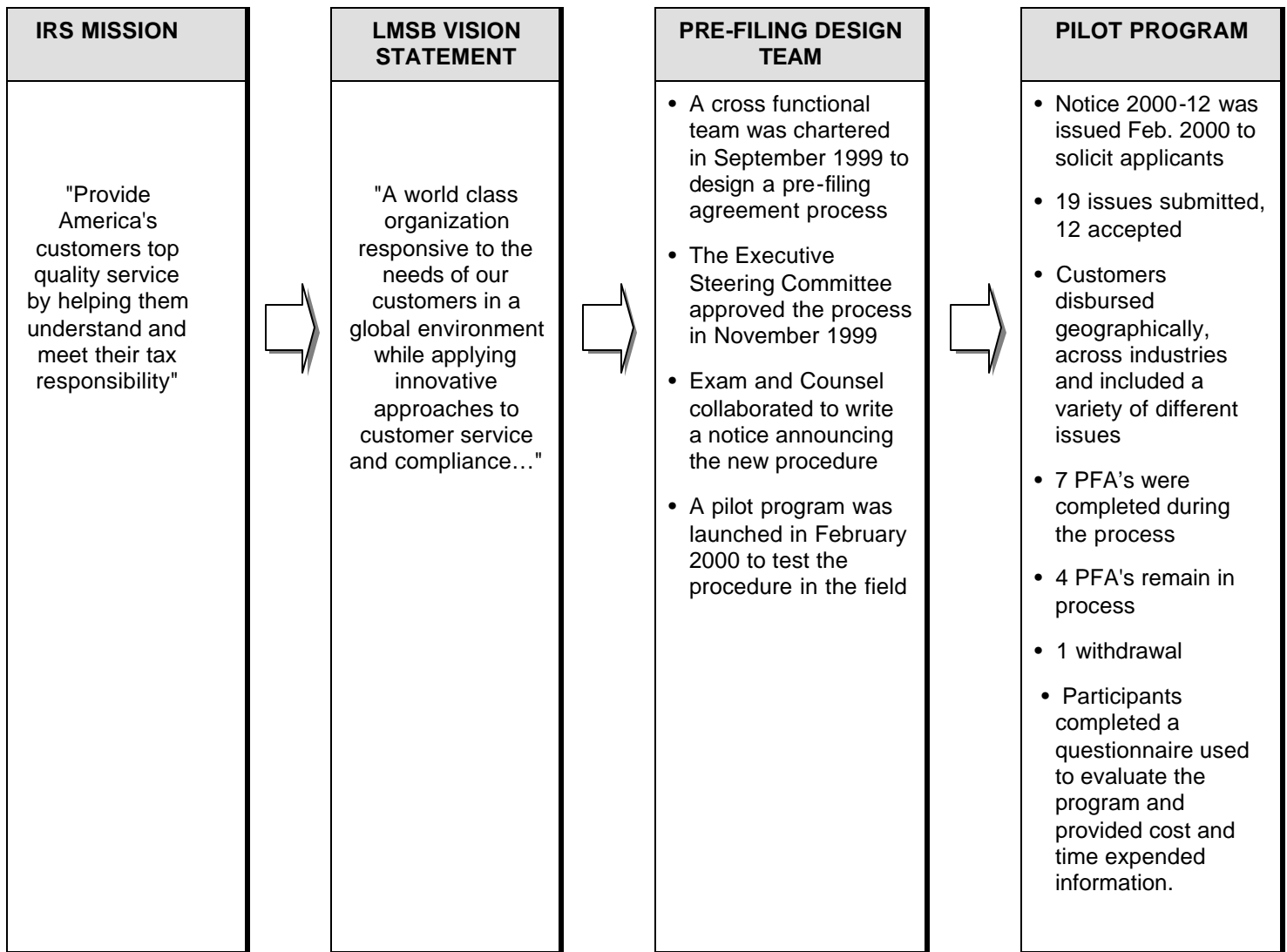
## Introduction

This orientation is intended to acquaint participants with the Pre-Filing Agreement (PFA) process, the expected results, and the participants roles and responsibilities.

- Today's orientation provides:
  - Background on why IRS is offering a Pre-Filing Agreement program,
  - Explanation of the process,
  - Expectations for the program and its environment,
  - Explanation of the roles and responsibilities of both the taxpayer and IRS participants, and
  - Explanation of how IRS will monitor and evaluate the Program
  
- This session also offers an opportunity to raise and address questions and concerns about the PFA Program
  
- The orientation brings all participants in this Program together, giving everyone the same guidance

## Background

The modernization effort formed a pre-filing design team in September 1999 to develop a Pre-Filing Agreement Pilot as an enabler of the IRS mission and LMSB vision.



Guiding principles were developed for the PFA Program based on input from internal and external stakeholders secured during the pilot program.

#### **GUIDING PRINCIPLES**

- The pre-filing agreement process should improve efficiency, save costs and meet established time frames
- Compliance and customer satisfaction benefits should be clearly identified and measurable in order to determine burden reduction
- The pre-filing agreement process should be timely and easy to use
- PFA Program guidelines will be consistently applied and the Pre-Filing Closing Agreement will be consistent with other IRS guidance
- The Process should move the decision making authority to the lowest possible level
- The Process should allow the customer to file more compliant returns
- The Process should improve the working relationship between the IRS and the taxpayer
- The Process should improve the efficiency of the post filing examination process and conserve resources by allowing contemporaneous reviews of the facts

## Process Details

The PFA Program has expected benefits **FOR BOTH** the taxpayer and the IRS.

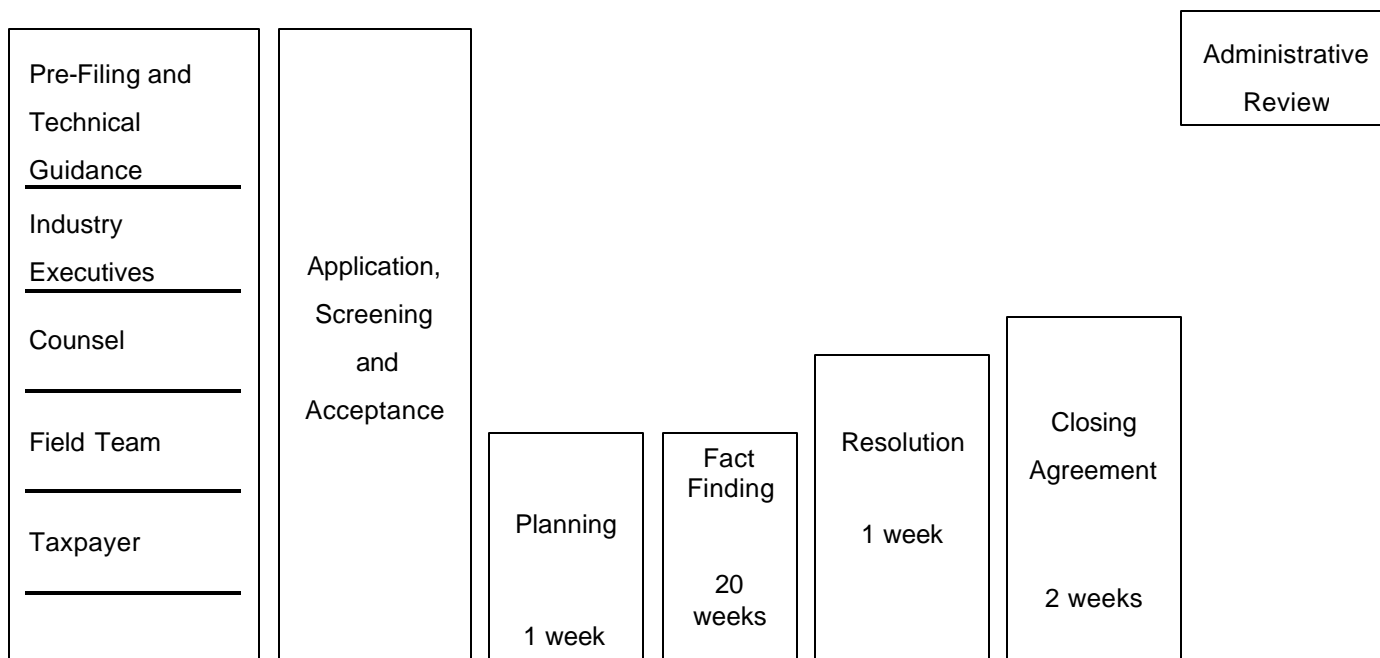
### BENEFITS FOR IRS AND TAXPAYER

- Records and people are readily available, reducing data gathering and examination time
- Fosters a cooperative relationship to resolve potentially contentious issues
- The Pre-filing issue examination is faster than the post-filing process
- Post-filing examination cycle time is reduced
- Improves resource allocation and post-filing timeframes as a significant issue(s) has already been examined
- Compliance burden and costs are reduced

As an additional benefit for the taxpayer, the PFA will create certainty for financial accounting purposes

The Pre-Filing Agreement process involves multiple levels of the LMSB organization, with the field team as the primary contact to the taxpayer.

## PRE-FILING AGREEMENT PROCESS STAGES



Some of the key steps in the PFA process include application processing, factual development and team recommendation

- Processing an Application *(average timeframe – 2 weeks)*
  - Determine suitability of issue(s) for the PFA Program
  - During screening process, the PFA Program Manager will conduct the Tier I screening. The Industry Director or Designee will conduct Tier II screening and will contact the taxpayer and the Examination Team to discuss suitability of the issue, commitment of resources and program goals

- Acceptance (*average timeframe – 1 week*)
  - Return filing requirements will not be affected by the PFA process
  - Inspection of records for a PFA will not preclude or impede a later examination of records, if necessary
  - Confidential return information will not be subject to disclosure
  
- Planning (*average timeframe – 1 week*)
  - Upon acceptance, the taxpayer and the IRS will agree on a proposed timeframe, identification of relevant records, access to records or testimony, and scope and depth of examination
  
- Factual Development (*average timeframe 20 weeks*)
  - Examination Team, with assistance from the taxpayer, will conduct pre-filing issue development in accordance with auditing standards and techniques
  - Additional resources will be provided as necessary
  - Examination Team will work closely with the taxpayer to resolve the facts
  - "One team concept"
  
- Examination Team Recommendation (*average timeframe – 3 weeks*)
  - Team Manager will share and discuss recommendation with the taxpayer
  - Conference with the taxpayer will be offered, if the PFA is not accepted
  - Team Manager will make recommendation to the Industry Director or Designee on whether to execute a PFA



## If a Pre-Filing Closing Agreement is not reached

There are various options if an agreement is not reached by the due date of the return (with extensions). Parties may:

- Continue efforts to secure a “PFA” closing agreement after filing the return and incorporate results in the audit report (RAR) or the taxpayer may file an amended return for any additional tax due or refund
- Continue to work the issue and use the Accelerated Issue Resolution process (Revenue Procedure 94-67)
- If the issue development is completed subsequent to the return being filed and there is still no agreement, an Early Referral to Appeals may be pursued (Revenue Procedure 99-28)
- Either party may withdraw from the PFA process

## Expectations

The Pre-Filing Agreement process provides a new environment to reduce overall exam cycle time, costs and burden

### NEW ENVIRONMENT

#### **Goal:**

- Reach a pre-filing closing agreement on contentious issues through a cooperative effort prior to filing return

#### **Primary Benefit:**

- Establishes a program that is easy to use and available at the right time
- Provides for an efficient and timely review of readily available records
- Reduces post-filing examination cycle time
- Reduces costs and burden to all parties
- Facilitates voluntary compliance
- Maintains decision making authority at the field level

#### **Procedures:**

- The audit will be conducted by an on-site exam team, if one is already assigned. If not, staffing will be determined by the Industry Director or his designee
- Taxpayer and the IRS work in close cooperation to quickly identify necessary information, facilitate issue development and reach a closing agreement prior to filing
- Both the taxpayer and the IRS must dedicate the resources to accomplish program goals
- PFA issue should be completed prior to the filing of the return

## KEYS TO SUCCESS

- Commitment to the PFA process by IRS personnel and the taxpayer
- Quality and timeliness of information provided during the process
- The level of cooperation among all parties to the process
- "One team" concept necessitates a certain degree of informality
- Time is of the essence

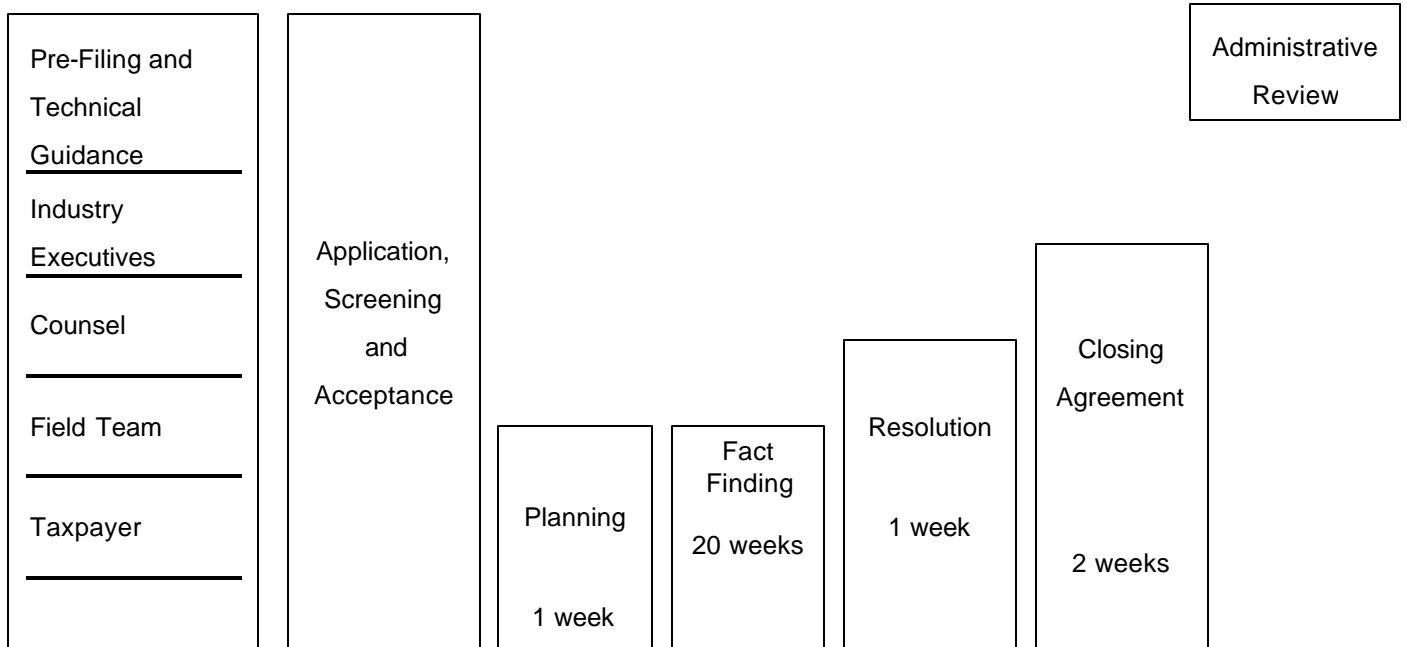
In order to accomplish the goals of the PFA Program utilizing the keys to success, a "co-location" approach is an option that permits an on-going, day-to-day discussion that will result in the timely flow and review of information necessary to arrive at an expeditious issue conclusion.

## AUDIT.... OR NOT?

- The "examination" of a Pre-Filing Agreement issue is not considered an audit. It is considered an inspection of a taxpayer's books and records for the purpose of arriving at the tax treatment of the PFA issue on a return that has yet to be filed.
- Although not an audit, the examination team is required to apply the same type of auditing techniques and adhere to established auditing standards to arrive at their conclusions on the PFA issue.
- PFA issue workpapers are not subject to "traditional" case review. However, the information may be thoroughly reviewed as part of the Industry Director's finalizing and signing of the PFA Closing Agreement.
- Significant difference - compressed time frame. All other auditing techniques and auditing standards will be adhered to.

There are expectations for the IRS and the taxpayer during each phase of the PFA process.

### PRE-FILING AGREEMENT PROCESS STAGES



### EXPECTATIONS DURING THE PLANNING STAGE (1 WEEK)

- Set taxpayer and IRS expectations with respect to timing and establish milestones
- Discuss the effect of a PFA on the current examination (if any)
- Solicit Specialist input on the specific issue if appropriate
- Time expended on the PFA activity will be charged to Activity Code 525000

## **EXPECTATIONS DURING THE FACT-FINDING PHASE (20 WEEKS - MAXIMUM)**

- Taxpayer and team identify the relevant records
- Quick access to the relevant information
- Application process included current record disclosure
- Access to current taxpayer staff
- Use timeline to emphasize the importance of expeditious information gathering
- Use timeline to interact with the on-going examination (if any)

## **EXPECTATIONS DURING THE RESOLUTION STAGE (1 WEEK)**

- Use Pre-Filing environment to maximize cooperative issue resolution
- Utilize local LMSB Counsel to help resolve issues, if necessary
- Quickly reach agreement... Or
- Identify specific areas of agreement and disagreement

## **EXPECTATIONS DURING THE CLOSING AGREEMENT STAGE (2 WEEKS)**

- Local LMSB Counsel will be involved in drafting the Closing Agreement to ensure consistency and accuracy
- The Agreement will be approved by the Industry Director (or Designee)
- If full agreement is not reached, provide IRS position to the taxpayer and agree on how to proceed post-filing

## **EXPECTATIONS DURING THE ADMINISTRATIVE REVIEW STAGE**

- Identify trends
- Verify consistency and accuracy
- Identify needs for rulings, Industry Guidance or other published guidance
- LMSB Pre-Filing and Technical Guidance Headquarters and Industry monitoring

## Roles and Responsibilities

PFA Program participants have distinctive roles and responsibilities

PARTICIPANTS	ROLES AND RESPONSIBILITIES
Taxpayer	<ul style="list-style-type: none"> <li>• Prepare and submit application</li> <li>• Participate in orientation</li> <li>• Establish audit plan and timeline with team for completing the process</li> <li>• Cooperate with team on issue development – provide necessary information/resources on a timely basis</li> <li>• Participate in the resolution</li> <li>• Work with team to draft closing agreement</li> <li>• Assist in monitoring and evaluating the process</li> <li>• Suggest process improvements through exit interviews or questionnaires</li> </ul>
Territory Manager, Team Manager, Field Team	<ul style="list-style-type: none"> <li>• Consult with taxpayer on participation</li> <li>• Explain the Revenue Procedure to the applicant and assist with the preparation of the application, as appropriate</li> <li>• Insure team and taxpayer commitment to Program</li> <li>• Review taxpayer application and prepare recommendation to Industry Director or designee</li> <li>• Arrange for necessary resources, including Field Specialists</li> <li>• Participate in orientation</li> <li>• Establish timeline with taxpayer for completing the process</li> <li>• Consult with internal experts such as Technical Advisors and Counsel</li> <li>• Evaluate facts and develop issues for resolution</li> <li>• Update Industry Director and PFA Program Manager on status</li> <li>• Review Closing Agreement with taxpayer</li> <li>• Assist in monitoring and evaluating the process</li> <li>• Suggest process improvements through exit interviews or questionnaires</li> </ul>

PARTICIPANTS	ROLES AND RESPONSIBILITIES
<p>Manager, Pre-Filing Services</p>	<ul style="list-style-type: none"> <li>• Assist participants and other interested parties as needed</li> <li>• Facilitate selection of applicants</li> <li>• Facilitate securing resources, including Field Specialists, not otherwise available</li> <li>• Administer oversight of operations and activities</li> <li>• Coordinate and consult with Counsel</li> <li>• Coordinate with internal experts to ensure consistency and accuracy of agreements</li> <li>• Monitor and troubleshoot when appropriate</li> <li>• Update Director, Pre-Filing and Technical Guidance regularly</li> <li>• Facilitate debriefing sessions</li> <li>• Set objectives, measure and report Program Results</li> </ul>
<p>Industry Directors or Designee</p>	<ul style="list-style-type: none"> <li>• Contact each applicant in their respective industries to ensure their commitment</li> <li>• Confer with taxpayer, as requested</li> <li>• Coordinate with other Industries and Field Specialists as appropriate</li> <li>• Secure additional resources, including Field Specialists, as necessary</li> <li>• Provide staff member to conduct orientation, monitor and facilitate process</li> <li>• Reinforce PFA Program as an IRS priority</li> <li>• Contact the Team Manager if case is assigned, and Territory Manager if unassigned to insure resources are available</li> </ul>
<p>Counsel</p>	<ul style="list-style-type: none"> <li>• Confirm application eligibility</li> <li>• Consult with PFA Program Manager on policy issues</li> <li>• Participate in Orientation if appropriate</li> <li>• Respond to questions and issues as appropriate</li> <li>• Review Closing Agreement</li> </ul>
<p>Technical Advisors</p>	<ul style="list-style-type: none"> <li>• When requested, screen applications and respond with concerns timely</li> <li>• Participate in Orientation as appropriate</li> <li>• Participate in pre-filing process, when expertise would add value</li> <li>• Respond to questions and issues as requested</li> </ul>



## Monitoring and Evaluation

The PFA Program manager will maintain contact with the team, the industry analyst and the taxpayer, monitoring the PFA progress

- Monthly time applied/status reports will be provided to the Industry Director or Industry Analyst by the Examination Team (see page 22)
- Industry analysts will provide monthly status reports to the PFA Program Manager on all PFAs in the Industry
- Taxpayers may provide input, if desired
- Taxpayer and IRS will be asked to track the total time spent on the PFA process as well as any other costs incurred. Time expended on the PFA issue by the examination team will be charged to Activity Code 525000.

### Pilot Results:

TAXPAYER	HOURS SPENT	COSTS	AVG. ELAPSED TIME
<b>Actual - Pre-Filing Process</b>	1,114	\$427,875	149 days
<b>Estimated if issue resolved Post-Filing</b>	3,379	\$1,065,625	474 days
<b>Estimated Savings</b>	2,265	\$637,750	325 days
<b>Estimated Savings Percentage</b>	67%	60%	69%
IRS	HOURS SPENT	COSTS	AVG. ELAPSED TIME
<b>Actual - Pre-Filing Process</b>	1,976	\$71,136	149 days
<b>Estimated if issue resolved Post-Filing</b>	7,344	\$358,864	510 days
<b>Estimated Savings</b>	5,368	\$287,728	361 days
<b>Estimated Savings Percentage</b>	73%	80%	71%

- Upon completion of the process (whether by execution of the closing agreement, withdrawal from the program by either party or by some other action), all

participants will be asked to provide feedback on the process through exit interviews and/or questionnaires

The balanced measures provide a framework for evaluating the program

BALANCED MEASURES	METHOD	MEASUREMENTS
Taxpayer Satisfaction	<ul style="list-style-type: none"> <li>• Questionnaire</li> <li>• Interviews</li> </ul>	<p><u>Orientation</u></p> <ul style="list-style-type: none"> <li>• Was the taxpayer involved in the process and was it helpful?</li> <li>• Were taxpayer questions answered in a timely manner?</li> </ul> <p><u>Issue Development</u></p> <ul style="list-style-type: none"> <li>• Were requests for information clear and relevant to the issue?</li> <li>• Was information reviewed in a timely manner?</li> <li>• Did the PFA process result in the resolution of the issue in a shorter time span?</li> </ul> <p><u>Relationship with IRS</u></p> <ul style="list-style-type: none"> <li>• Did process improve relationship between IRS and the taxpayer?</li> <li>• Did the process make it easier to come to an agreement?</li> </ul> <p><u>Management Involvement</u></p> <ul style="list-style-type: none"> <li>• Was upper management of the IRS involved in this process and did they add value?</li> <li>• Was the taxpayer's tax department provided with sufficient support from their upper management?</li> </ul>
Employee Satisfaction	<ul style="list-style-type: none"> <li>• Questionnaire</li> <li>• Interviews</li> </ul>	<p><u>Orientation</u></p> <ul style="list-style-type: none"> <li>• Were all necessary team members involved in the process?</li> <li>• Were areas such as resources, time lines and PFA's effects on other priorities addressed?</li> </ul> <p><u>Issue Development</u></p> <ul style="list-style-type: none"> <li>• Was the information provided in a timely manner?</li> <li>• Did the members have sufficient time to review information, and draw a conclusion?</li> <li>• Were the team members empowered to make decisions?</li> </ul>

BALANCED MEASURES	METHOD	MEASUREMENTS
Employee Satisfaction (continued)		<u>Relationship with taxpayer</u> <ul style="list-style-type: none"> <li>• Did the relationship with the taxpayer improve?</li> <li>• Was it easier to reach an agreement?</li> </ul> <u>Management Involvement</u> <ul style="list-style-type: none"> <li>• Were the upper management teams of the IRS and the taxpayer involved in the process?</li> </ul>
Business Results - Quantitative	<ul style="list-style-type: none"> <li>• Questionnaire</li> <li>• Interviews</li> <li>• Statistical data</li> </ul>	<ul style="list-style-type: none"> <li>• Were the issues resolved or was substantial progress made to allow issues to efficiently move forward as unagreed?</li> <li>• Will the PFA process result in a reduced time span in future cycles?</li> <li>• Did the Process result in issue resolution or a fully developed unagreed issue in less staff time?</li> <li>• Were other services (such as Early Referral to Appeals) utilized?</li> <li>• Were the costs to the IRS (with PFA vs. without PFA) reduced?</li> <li>• Were the costs to the taxpayer (with PFA vs. without PFA) reduced?</li> </ul>
Business Results - Qualitative	<ul style="list-style-type: none"> <li>• Questionnaire</li> <li>• Interviews</li> <li>• Review of agreements</li> </ul>	<ul style="list-style-type: none"> <li>• Did participants have sufficient time and information to develop issues?</li> <li>• Were auditing standards adhered to during the PFA Process?</li> <li>• Ease of reaching agreement under PFA vs. post-filing</li> <li>• Impact of PFA Program on compliance</li> </ul>

## **Closing Agreement**

The Closing Agreements should be drafted by the taxpayer, reviewed by local LMSB Counsel and executed by the Industry Director or the Director of Field Operations

- ◆ The taxpayer should submit the initial draft of the Closing Agreement
  - ◆ The Closing Agreement should be kept as simple and straight-forward as possible
  - ◆ Local LMSB Counsel will review all drafts and provide assistance in finalizing the language and, at their discretion, request assistance from Nation Office Chief Counsel
  - ◆ The authority to execute the Closing Agreement rests entirely with the Industry Director or the Director, Field Operations
- Del. Order 262 (Rev. 1)



**Pre-filing Agreement Program  
Monthly Report  
(To be prepared by Team Manager)**

Month Ended: \_\_\_\_\_

Taxpayer: \_\_\_\_\_

*Instructions – Time is reported for the **current month only**. The reporting period is the AIMS month. Time should be accounted for in days. The **narratives are cumulative** in nature. The next month’s narrative should be added following that of the previous month. The narrative for each month should be separately identified. The completed Monthly Report should be faxed or e-mailed to the appropriate Industry Analyst. The Report is due not later than COB of the 1st workday following the end of the month. The Monthly Report(s) for all cases within an industry will be forwarded to the PFA Program Manager by the Industry Analyst not later than the 3rd workday following the end of the month. Examiners should charge time to AIMS Activity Code 525000 for purposes of Form 4502.*

Time Expended (staff days expended during current month only):

Position	Staff Days
Team Manager	
Team Coordinator	
Domestic Agent (All)	
International Exam. – Mgr	
International Examiner	
Engineer – Mgr.	
Engineer	
Economist Mgr.	
Economist	
Computer Audit Spec. – Mgr	
Computer Audit Specialist	
Financial Products - Mgr.	
Financial Products Specialist	
Other (state)	
Other (state)	
Other (state)	

- 1. Is the Taxpayer providing the information necessary to address the PFA issue on a timely basis? If no, please explain**
- 2. Are there any issues or concerns that the Industry Analyst or PFA Program Manager needs to be involved with or made aware of in regards to the PFA? If yes, please explain.**
- 3. In your opinion, will this issue be resolved prior to the filing date of the return?**

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