

Consolidated Key Sections: General Administration Handbook 5.1

[5.1] 1.1 (05-27-1999)

Overview

1. This chapter contains guidelines and instructions on:
 - o Revenue Officer assignments and transmittals
 - o Case file history sheets
 - o Information gathering
 - o Daily Transaction Register (DTR)
 - o Document requests
 - o Fair Debt Collection Practices Act
 - o Security and control
 - o Disclosure
 - o Power of attorney
 - o Verbatim recordings
 - o Cross reference of proprietors' SSNs and EINs
 - o Electronic filing program
 - o Integrated Data Retrieval System (IDRS)
 - o One stop customer service
 - o Resources and Workload Management System (RWMS)
 - o Accounts receivable

[5.1] 1.2 (05-27-1999)

Revenue Officer Assignments and Transmittals

1. Revenue officer assignments consist of the following:
 - o Taxpayer Delinquent Accounts (TDAs) -- Form 4907.
 - o Taxpayer Delinquency Investigations (TDIs), Form TYD-14.
NOTE:
 - In ICS districts there are no Forms 4907 or Forms TYD-14 issued. Open Balance due modules and open delinquent return modules are displayed on the ICS case summary screen.
 - o Courtesy Investigations -- Form 2209.
 - o Compliance Initiative Projects (formerly Returns Compliance Programs).
 - o Offers in Compromise -- Form 656, and Form 2525, Record of Offer in Compromise.
2. Service centers and district offices use Form 3210, Document Transmittal, to transmit assignments and other tax related items.
3. The revenue officer will:
 - A. Attach case assignments from the Service Center Collection Branch and Collection Support to Form 1976, Assignment Slip for routing to the responsible unit.
 - B. Batch case assignments to Form 3210, Document Transmittal for shipment to the district or post-of-duty.
 - C. Attach to Form 1725, Routing Slip other work items such as offers in compromise, estate tax extensions and CP 44's and then transmit on Form 3210.

D. Attach to Form 3210 DAIPs, DIIPs and DTRs.

NOTE:

In ICS districts there are no longer DTRs. This information appears as notifications and is automatically posted to the ICS module.

4. District and posts of duty offices are to use Form 3210 to transmit all tax related documents to the service center. Use of Form 3210 is not required for intra-district routing of tax related documents.
5. IDRS controlled cases being assigned or re-assigned must be T-SIGNED to the correct IDRS assignment number.
 - A. Group managers will transmit cases for assignment to revenue officers on Form 1976, reflecting assignments by unit count only.
 - B. After verifying the number of cases transmitted and resolving any discrepancies with a manager, the revenue officer is to post the number of assignments received to the inventory portion of Form 795, Daily Report of Collection Activity.

NOTE:

In ICS and Entity districts the above does not apply, this will all be done automatically.

[5.1] 1.3 (05-27-1999)

Case File History Sheets

1. Use Form 2747, Investigation History, to record decisions and actions taken on cases. Local forms may be used in lieu of Form 2747 at regional option. Entries should be made in chronological order. In districts where the Integrated Collection System is operational, electronic case files may be maintained in lieu of Form 2747.
2. District management may determine the type and degree of documentation required. However, such items as revenue officer identification, date of taxpayer contact, actions expected of taxpayers, target dates established, enforcement actions, etc. should be included in the case history. Include explanations showing why actions were taken to support appealable actions such as liens, levies, seizures, offers-in-compromise or trust fund recovery penalties.
3. A history entry should be made to reference an action even though a form or document relative to the action is in the case file.
4. When multiple accounts and/or investigations are present, on the cases should be cross referenced and the history material maintained with the latest period. However, if any account is being reported as currently not collectible, include a copy of the case history with the Form 53, Report of Currently Not Collectible Taxes.

[5.1] 1.4 (05-27-1999)

Information Gathering Guidelines

1. Seek only the information necessary for the enforcement and administration of the tax laws which the Service is

authorized and directed to enforce. Do not index or associate any information with the name or identifying symbol of a taxpayer that is not required for the enforcement and administration of tax law. Do not disclose information except as provided by law.

2. Do not maintain background or historical files on taxpayers except when those files pertain to a currently assigned case. Any exception must be authorized for a specific purpose by higher authority.

[5.1] 1.4.1 (05-27-1999)

Group Manager Review of Information Gathering

1. Group Managers will continually review information gathering activities conducted by employees under their supervision and prepare appropriate documentation that these reviews have been accomplished.
2. Conduct formal reviews of information gathering activities in accordance with IRM 105.3, Locating Taxpayers.

[5.1] 1.4.2 (05-27-1999)

Objective and Scope of Reviews

1. Reviews of information gathering activities ensure:
 - o compliance with Service policy and guidelines
 - o results achieved are commensurate with the resources expended, and;
 - o compliance with Privacy Act requirements in accordance with IRM 1.3, Disclosure of Official Information Handbook.
2. Conduct reviews to the degree necessary to satisfy the responsible official that there has been compliance with Service policy, guidelines, and procedures.

[5.1] 1.4.3 (05-27-1999)

Responsibilities for Reviews

1. Regional Commissioners will provide that reviews are conducted of district information gathering activities to ensure the districts are meeting their responsibilities in identifying areas of noncompliance and adequately monitoring and managing the district's information gathering activities.
2. Regional Commissioners will determine the frequency of reviews and the extent of documentation necessary to reflect the accomplishment of these reviews.
3. Coordinate reviews with Disclosure Officers to ensure that the Privacy Act requirements are being observed in accordance with IRM 1.3, Disclosure of Official Information Handbook.

[5.1] 1.5 (05-27-1999)

Daily Transaction Register

1. The Daily Transaction Register (DTR) is a listing of a day's transactions on IDRS. DTR's are generated for each TDA/TDI assignment code.
2. In districts covered by the Integrated Collection System (ICS), the DTR appears on ICS; a paper DTR is not generated.
3. In districts not yet covered by ICS, DTRs are printed at the service center and mailed to the district offices.

[5.1] 1.6.3 (05-27-1999)

Third Party Documents

1. When third party information is required, transcribe or request copies of the pertinent information. If you need to make and pay for photocopies, claim photocopy fees on your travel voucher.
2. When securing actual third party or taxpayer records and documents, use Form 2725, Document Receipt, as the receipt for the records and documents.
3. Provide taxpayers with a receipt for returns or documents when requested by taxpayers or their representatives. Use an official received date stamp to stamp a copy of the transmittal letter or a copy of the return or document. You may also use Form 2725.

[5.1] 1.6.4 (05-27-1999)

Official Received Date Stamp

1. Maintain official "Received" date stamps in each office where it is necessary to record received dates, such as for filed returns.
2. When not in use, protect assigned stamps against unauthorized or indiscriminate use. Provide the stamp with HIGH SECURITY, as described in the Manager's Security Handbook. The stamp should contain the following elements:

Internal Revenue Service
Received
(Month, day, year)
District Director (City, State)
(Serial number)

[5.1] 1.7 (05-27-1999)

Fair Debt Collection Practices Act

1. IRC 6304 requires the IRS to comply with certain sections of the Fair Debt Collection Practices Act (FDCPA). These deal with:
 - o contacts regarding unpaid tax, and
 - o harassment and abuse of taxpayers.
2. This law applies to contacts with all taxpayers, including corporations and partnerships.
3. Violations of IRC 6304 could subject the IRS to civil action (IRC 7433) by the taxpayer.

[5.1] 1.7.1 (05-27-1999)

Contacting Taxpayers

1. Some contacts require the taxpayer's consent, first. These include:
 - A. contacting the taxpayer at any unusual time or place, or a time or place an employee knows or should know, is inconvenient to the taxpayer,
 - B. contacting the taxpayer at work, if there is reason to believe the employer does not allow this,
 - C. directly contacting a taxpayer who has a known, authorized representative or one that can be readily identified.

Exceptions:
 - D. If the representative does not respond in a reasonable time, they can be bypassed. See Section 1.10 of this chapter. Also the taxpayer can be contacted directly if the representative consents to the employee's direct contact.
 - E. If the contact is authorized by a court.
2. Employees can generally assume that it is convenient to contact the taxpayer after 8:00 a.m. and before 9:00 p.m. local time at the taxpayer's location, unless there is reason to know otherwise.

[5.1] 1.7.2 (05-27-1999)

Awareness that the Taxpayer has a Representative

1. An IRS employee is considered to know about the representative if the taxpayer says there is one. This can be written or oral. If the taxpayer is represented:
 - A. ask for a written power of attorney or disclosure authorization form, or
 - B. ask the taxpayer to provide the name and address of the representative
2. There may be doubt whether a person still represents the taxpayer or an issue is covered. If so contact the representative and ask.

CAUTION:

If the IRS employee does not have the power of attorney or some other written authorization, the representative may be contacted, but no more can be disclosed than what is authorized in IRC 6103(k)(6).

[5.1] 1.7.3 (05-27-1999)

Promoting Public Confidence

1. It is IRS policy not to use methods which are threatening or harassing to the public. See Policy Statement P-1-1. IRC 6304 prohibits employees from harassing, oppressing, or abusing any person in connection with the collection of any unpaid tax.
2. The following actions are considered violations:
 - A. the use or threat of use of violence or other

- criminal means to harm the physical person, reputation, or property of any person,
- B. the use of obscene or profane language to abuse the hearer or reader,
- C. causing a telephone to ring or engaging any person in telephone conversation with the intent to annoy, abuse or harass any person at the called number,
- D. placing telephone calls without meaningful disclosure of the caller's identity, except as similar to rules in Section 804 of the FDCPA.

EXCEPTION:

If the telephone call is only for the purpose of acquiring location information about the taxpayer, the employee cannot:

- E. tell any third party that they are an employee of the IRS, or
- F. provide their title (R/O, TE, etc.) to the third party unless, that information is requested by the third party. "Location information" is defined as the taxpayer's place of abode and phone number at such place, or place of employment.

[5.1] 1.9 (05-27-1999)

Disclosure

1. Disclosure is a descriptive term encompassing the making known of information by the Service to taxpayers, the general public, and State and Federal agencies.
2. Follow the safeguards discussed in this section to prevent unauthorized disclosures. Also, refer to the Disclosure of Official Information Handbook or the District Disclosure Officer when questions arise concerning disclosure.
3. In addition, note that, under the Taxpayer Browsing Protection Act, which was enacted in August 1997, the willful unauthorized access or inspection of any taxpayer records, including hard copies of returns and return information, as well as taxpayer information maintained on a computer, is a crime.

[5.1] 1.9.2 (05-27-1999)

Notice 609 -- Privacy and Paperwork Reduction Act

1. Notice 609 informs individuals of their rights to privacy in non-criminal investigations. This notice is:
 - A. automatically sent to individuals with IMF return delinquency first notices
 - B. enclosed with individual master file Notices CP 504 along with Publication 594, The IRS Collection Process
2. District offices will furnish Notice 609 to taxpayers:
 - A. with Letter 1058C or (DO), Important Notice, mailed on IMF delinquent accounts where a second notice was not issued;
 - B. on all initial Returns Compliance Program (RCP) contacts with IMF taxpayers;
 - C. when hand delivering first notices on prompt, quick,

- jeopardy, and termination assessments on individuals;
- D. in all other situations where information is requested from individuals who have not received notification of their right to privacy, e.g., certain Special Procedures function contacts, Trust Fund Recovery Penalty investigations, etc.
3. Use Letter 759(DO) for mail outs of Notice 609 when it cannot be included with other correspondence directed to the taxpayer.

[5.1] 1.10 (05-27-1999)

Processing Power of Attorney (POA)

1. Ensure all parts are complete and signed by the representative and taxpayer. A statement that the POA is valid under the governing jurisdiction must be attached. Send original or copy of POA (and any accompanying documentation) to the Centralized Authorization File (CAF) in the service center. Retain copy or original in the Collection case file.

NOTE:

If a taxpayer is in bankruptcy, the attorney of record who filed the petition is authorized to act on the debtor's behalf with respect to taxes subsumed by the proceeding per IRC 6103(c)(6).

[5.1] 1.10.1 (05-27-1999)

Exceptions to Sending POA to Service Center

1. Retain POA in case file if:
- A. Clearly intended for one time use
 - B. Authorizations submitted with Freedom of Information Act request
 - C. Congressional inquiries
 - D. Form 8821, Tax Information Authorization is submitted with "specific use" box checked
 - E. Form 2848, Power of Attorney is submitted with "specific use" box checked
 - F. POA is received on civil penalties with MFT 13 or 55

NOTE:

A POA that covers a specific tax period for a specific tax return would be forwarded to the service center unless it falls into the one-time category.

[5.1] 1.10.2 (05-27-1999)

Change/Cancel POA

1. Request statement from POA or taxpayer cancelling existing POA.
2. Employee receiving cancellation will clearly place the district name or district office code at bottom of cancellation where cancellation was received by the Collection function.
3. Review cancellation to ensure basic information is correct.

4. Send statement of cancellation to CAF Unit at service center.

NOTE:

The filing of a subsequent Form 2848 for the same periods of a previous authorization will automatically replace and revoke the previous Form 2848 unless specified otherwise by the taxpayer. Similarly, a new Form 8821, Tax Information Authorization, will replace and revoke a prior Form 8821.

[5.1] 1.10.3 (05-27-1999)

Automation of Powers of Attorney

1. POAs are maintained on an automated Centralized Authorization File (CAF). The CAF consists of taxpayer records and representative records.
2. IDRS Command Code CFINQ may be used to research POA files.
3. Researching CFOL Command Code , CAFOL will access CAF files nationwide.
 - A. Taxpayer records consist of modules for which taxpayer has given POA and cross references to the records of the representative(s) involved.
 - B. Representative records will contain names and addresses of the representative.
4. The CAF system will automatically direct copies of notices and correspondence to the authorized individuals.
5. Revenue ruling 80-46 allows certain business entities to submit a list of representatives to the local district director. This list exceeds the three persons that may be recorded on the CAF. The district Disclosure Officer may be contacted to verify that a person may be given confidential information.

[5.1] 1.10.5 (05-27-1999)

Delinquency Notices to Taxpayer's Representative

1. Qualified representatives shall receive any notice or other written communication required or permitted to be given to the taxpayer in the matter concerning the taxpayer. If more than one representative, notice to one representative is sufficient.
2. Upon written request, furnish to the taxpayer's representatives notices and written communication issued to the taxpayer concerning offers in compromise and trust fund recovery penalty assessments.
3. Furnish only copies of taxpayer communications to the taxpayer representatives that have a direct bearing on the nature of his/her representation.
4. Form 8655, Reporting Agents Authorization, maintained on the Reporting Agent's File (RAF) authorizes reporting agents to sign and file federal employment tax returns on magnetic tape and/or make federal tax deposits for the taxpayer. Agents may also receive copies of notices, correspondence, and/or transcripts of the returns filed by the agent.

[5.1] 1.10.7 (05-27-1999)

Bypassing Taxpayer's Representative

1. Report unreasonable delays by the taxpayer's representative that hinders an investigation by failing to furnish requested information or documents to the Group manager. Make a request, to the group manager, to contact the taxpayer directly.
2. When permission is granted a written notice signed by the group manager stating the reasons, will be sent/given to the taxpayer and representative in advance of contact with the taxpayer (except as provided below in 1.10.7(4)). This notice will remain part of the casefile.
3. The service cannot ignore the representative merely because it is dealing directly with the taxpayer. The duty to recognize the representative continues should he/she appear when contact with the taxpayer is made. Advise the representative of all future contacts.
4. Occasionally, both time and logistics make it impossible to notify the legal representative prior to taxpayer contact and failure to contact the taxpayer immediately would result in prejudice to the taxpayer or harm the investigation. Prior to bypassing the representative without notice, consultation with the Office of Chief Counsel, General Services Division, CC:GLS, through District Counsel is mandatory .
5. Chief Collection (Group Manager if no Chief) may, if the situation warrants, request the District Director to refer the matter to the Director of Practice for possible disciplinary proceedings under Section 10.23 of Treasury Circular No. 230.

[5.1] 1.11 (05-27-1999)

Taxpayer Request to Make A Verbatim Recording

1. The taxpayer has the right under the Taxpayer Bill of Rights to make an audio recording of an in-person interview. Ten days advance written notice from the taxpayer is required. There is not a right to make a visual recording, and it is our policy to not allow them.
2. If ten days prior notice is not given, the Service employee has the option either to permit the recording or to set a new date for the interview.
3. The taxpayer must supply his or her own recording equipment. The recording can be by tape, stenographic, or other means.

[5.1] 1.11.1 (05-27-1999)

Agree With Request

1. Generally, you should agree to the request subject to the following provisions:
 - A. equipment is available for the Service to produce its own recording;

- B. the recording takes place in an Internal Revenue Service office;
 - C. you get the approval of your manager prior to the recording.
2. If the recording equipment and suitable location are not available, postpone and reschedule the meeting.

[5.1] 1.11.2 (05-27-1999)

Deny the Request

1. Deny requests to videotape or film the interview.
2. The manager may deny a request for an audio recording because the taxpayer's behavior is clearly disruptive of the normal collection process. Promptly refer the matter through channels to the District Director.

[5.1] 1.11.3 (05-27-1999)

Procedures for Verbatim Recording

1. When a recording is made, your manager should be present at all times. If the manager is not available, another Service employee should be present.
2. At the outset of the recording, identify yourself, the date, time, place, and purpose of the meeting.
3. The participants in the meeting must also identify themselves, their role in the proceeding, and acknowledge and consent to the making of a verbatim recording. If an additional participant arrives or a participant leaves the meeting, note these facts on the recording.
4. When written records are presented during the proceeding, they must be described in sufficient detail to make the verbatim recording a meaningful record when matched with the other documentation contained in the case file.
5. At the conclusion of the meeting, state that the proceeding is completed and the recording is ended.
6. Attach a copy of the written request, the approval/disapproval, and the verbatim recording to the case file.

[5.1] 1.11.4 (05-27-1999)

Transcript

1. Transcribe all or part of the recording when necessary.
2. The taxpayer may request duplication or a transcript of our copy of the interview. Payment for the cost of the reproduction or transcript must be received in advance.

[5.1] 1.12 (05-27-1999)

Cross Reference of Proprietors SSNs and EINs

1. A proprietor has records on both the IMF and BMF.
 - A. The IMF records are under the proprietor's SSN.
 - B. The BMF records are under the proprietor's EIN.
2. Even though the BMF records are stored and retrieved using

the EIN, there is a secondary identification number field for the proprietor's SSN.

[5.1] 1.14 (05-27-1999)

Integrated Data Retrieval System (IDRS)

1. The IDRS is a large scale computer system designed to maintain service center regional data base files with random access capability from remote locations. The system employs storage devices and visual display terminals located in the service center and selected field offices to provide a two-way rapid communications pipeline between the field and the data base files. Working in harmony with the Individual, Business, and Non-Master Files (IMF, BMF, NMF), the system presents a ready source of current information on taxpayers. See ADP Handbook (Document 6209), Section 13.

[5.1] 1.14.1 (05-27-1999)

Operation of IDRS

1. From the Collection activity standpoint, the heart of IDRS is the potentially active file of accounts receivable, delinquent filers, and credit balance accounts established at the National Computer Center (NCC) for BMF and IMF output and service center for NMF output. Receivables are established at the time assessments are made, modules are updated with subsequent activity, and delinquent filers are established when a delinquency condition is determined.
 2. Upon establishment of an account receivable or delinquency filing condition, IDRS will generate or suppress, as required, the various notices to be issued to taxpayers. Further, the system will generate return delinquency investigations and balance due accounts to ICS, ACS and paper TDAs, TDIs, follow-up notices, and related documents to applicable field offices, including a daily transaction register reflecting current actions not known by the responsible unit on assigned cases.
 3. The IDRS data base is kept current in three ways.
 - A. First, it is updated weekly with data extracted from the NCC Master File and NMF to reflect the latest posted taxpayer account information.
 - B. Second, it is updated immediately when terminal input data is posted.
 - C. Third, memorandum information is gathered daily from the service center and field office transaction files while the data are still in the pipeline to the NCC for posting to the Master File.
- NOTE:
- These memoranda are carried in the data base as pending transactions until processed information is available from the next weekly updating of the Master Files.
4. Generally, a case controlled on IDRS remains in the system for a limited period after its status is changed to

closed. A case is closed only after final actions are completed and posted.

EXAMPLE:

Collected, abated, transferred to another region, or reported currently not collectible.

Actions temporarily suspending collection are not valid closing actions and do not remove accounts from the system.

EXAMPLE:

Military deferments, offers in compromise, bankruptcies, payment tracer and adjustment requests, pending installment agreements, and pending court actions.

5. Case controls will not close off IDRS automatically. Periodically the service center generates Overage Case Control Reports so the initiating function can assess the validity of outstanding controls. When these reports are forwarded to the district, the function which established the control is responsible for processing the report and closing unnecessary control bases. The command code ACTON is used to establish and modify case controls as detailed in 3(25)(77)(12) of LEM III.

[5.1] 1.14.2 (05-27-1999)

Revenue Officer Terminal Usage

1. Revenue officers do not have access to command codes that can change the status of any account. Revenue officers may be profiled for any command code which enables research only. See 3(25)(77)0 of LEM III for examples.

EXCEPTION:

In some ICS districts revenue officers are Error Resolution Technicians (ERT). ERT's have access to command codes that can change the status of an account.

[5.1] 1.14.4 (05-27-1999)

Unpostable Transaction Codes

1. When transactions are sent to the master files, certain checks are automatically made to prevent incorrect information from posting. For example, if a transaction is input, and the name control does not match the one at master file for the Taxpayer Identification Number (TIN) used in the input, the transaction goes unpostable. The service center is notified of these unpostable transactions and tries to correct them.
2. If the input was requested by a district office employee, the service center may not be able to correct the unpostable transaction using just information in the center. When this happens, the service center employee who is working on the unpostable transaction will try to identify the district office employee who asked for the input and ask him/her for additional information to correct the transaction.

3. If the service center cannot reach the district office employee or his/her manager by phone, a routing slip (Form 1725) will be sent to the district asking for the information needed to resolve the unpostable transaction. The routing slip includes the name, telephone number, and address of the service center employee.
4. When one of these requests is received, call the service center employee as soon as possible (but no later than fifteen days after receipt) and provide the requested information. This will ensure the transactions which close TDAs and TDIs are posted quickly. If the service center employee cannot be reached by telephone, send the information back to the service center on a routing slip. Attach this to the routing slip that the service center sent to help associate the answer with the case record.

[5.1] 1.15 (05-27-1999)

One Stop Customer Service

1. The Service is dedicated to providing one stop quality assistance to taxpayers and taxpayer representatives. This means that Collection employees may find themselves assisting taxpayers in notice status or taxpayers assigned to ACS or Examination.

[5.1] 1.16 (05-27-1999)

Resources and Workload Management System (RWMS)

1. The Resources and Workload Management System (RWMS) prioritizes both TDAs and TDIs and enables district management to limit CFf receipts to the most productive cases based upon current staffing. It uses many variables to arrive at a score, some of which are:
 - o Information from prior returns.
 - o IRP data, e.g. 1099.
 - o Payment history on delinquent modules.
 - o Business type.

NOTE:

- Since the RWMS score reflects only the probability, not the certainty that a module will be full paid, there may be accounts with a high RWMS score that will still be uncollectible.
2. The scoring of TDIs is similar to that of TDAs. The Discriminate Function (DIF) score for IMF cases or the Last Return Amount (LRA) for BMF cases is converted into an estimated balance due for a module. This estimated amount is then weighted for operational considerations and anticipated costs are subtracted to arrive at the RWMS score.
3. The RWMS score is computed for each module at TDA/TDI issuance and will not change unless a TC29X or TC30X posts to the module. The modular scores are added together for the entity score. The entity score will change as delinquent modules are satisfied or additional modules become delinquent.
4. The combined scores of all delinquent return modules open

at the time a TDI is produced will be printed on the TDI. Only the modular RWMS score will appear on a TDA. The entity score will appear on TDINQ and on the DIAL; modular scores will appear on TDINQ and TXMOD. TDA and TDI scores will be shown separately on ENMOD.

[5.1] 1.16.1 (05-27-1999)

RWMS Queue

1. The RWMS Queue is resident on IDRS. After complete Automated Collection System (ACS) processing, the entity will be transferred (exceptions listed below) to the Queue of the appropriate district. See section 1.16.1(2) of this chapter. The following cases, however, will systemically bypass ACS and be issued directly to CFf.
 - o Non-master file cases.
 - o MFT 03, abstract numbers 050 and 052 (Form 720, Excise Tax Return--Windfall Profits Tax).
 - o MFT 12, Form 1042, Annual Withholding Return for U.S Source Income of Foreign Persons.
 - o MFT 15, Form 8752, Required Payment or Refund Under Section 7519.
 - o MFT 52, Form 706, U.S. Estate Tax Return.
 - o MFT 63, Form 11C, Special Tax Return and Application for Registry--Wagering
 - o MFT 64, Form 730, Tax on Wagering.
 - o MFT 77, Form 706GS(D-1), Notification of Distribution from a Generation-Skipping Trust.
 - o MFT 78, Form 706GS(T), Generation Skipping Transfer Tax Return for Terminations.
 - o TR-1 coded TDAs, Request for Quick/Prompt Assessment, including Trust Fund Recovery Penalty prompt assessments.

NOTE:

Other TC 290 prompt assessment cases and those with a TC 300 in the module will be issued to ACS.

- o Defaulted installment agreements with a revenue officer TSIGN or expired review date at time of default.
- o Selection codes 92 (IRS employee) TDIs.
- o TDAs/TDIs with TC 148 and IDRS issuance code of T, U, N, or L.
- o TDAs with TC 914 or TC 916.
- o TDIs with secondary TDI code "I," closed Criminal Investigation case.
- o TDAs with TC 59X, closing code 63 or 64.

NOTE:

Cases above will be issued with IDRS assignment number 6100 unless there already is a related module with a revenue officer assignment number.

2. ACS sends the following types of cases to CFf instead of the Queue:

1. Cases in which CFf requests assignment to the field because they have related accounts on the taxpayer and the request is made by an appropriate CFf management official.

2. Cases in which the taxpayer requests personal contact with a revenue officer and ACS is not able to resolve the case at its level.
 3. All delinquencies on any federal, state, or local governmental agencies.
 4. All delinquencies with any of the following issuance or case codes: S-TC 148 on erroneous refund cases, PDT--Potentially dangerous taxpayer, FRIV-RET--F frivolous Return, and E-W4 Civil Penalty.
 5. All delinquencies with MFT's 13, 14, or 56.
 6. Any delinquencies dealing with a "prominent individual" when local management determines that transfer of the case to the Queue may have a detrimental effect on compliance.
- EXAMPLE:
- This may be a sports star, entertainer, politician or otherwise prominent person.
7. Cases sent to CFF instead of the Queue, except non-master file cases, are not systematically prevented from later being sent to the Queue if otherwise appropriate.
3. Occasionally, correspondence regarding cases in the Queue will be received in the district office. Such correspondence will be sent, via Form 3210, to the ACS site servicing that district unless the correspondence relates to a case meeting the ACS bypass criteria in section 1.16.1(1) above.

[5.1] 1.16.2 (05-27-1999)

Targeted Inventory Levels

1. Targeted inventory levels are intended to provide a manageable inventory while still enabling revenue officers to maintain the highest level of quality. National inventory ranges are established to provide a measure of uniformity between the various field offices. The ranges are as follows:
 - o Grade 12 -- 34 to 50 taxpayer cases.
 - o Grade 11 -- 53 to 79 taxpayer cases.
 - o Grade 9 -- 70 to 107 taxpayer cases.
 - o Grade 5/7 -- 59 to 89 taxpayer cases.
2. Revenue officers should bring to their manager's attention situations that may represent unmanageable inventory levels and/or misgraded case levels. Factors that are considered include:
 - o National targeted inventory ranges.
 - o Level of case difficulty.
 - o Geographical area covered.
 - o Collateral duties, such as official union duties, EEO assignments, on-the-job instructor assignments, and quality improvement assignments.
3. When a revenue officer's assigned inventory is in excess of the national maximum level, or other reduced level per section 1.16.2(2) above for more than 10 work days, the IRM requirements relating to prompt initial and follow-up contacts will be suspended for the time period that he/she carries the higher inventory.

Chapter 2 -- Remittances, Form 809 and Designated Payments

[5.1] 2.1 (05-27-1999)

Payment Documents

1. Acceptable payment documents include, but are not limited to the following:
 - o Return envelopes.
 - o Turnaround notices (MF and IDRS notices to taxpayer).
 - o Correspondence.
 - o Form 4907, TDA parts
 - o Form 3244, Payment Posting Voucher.
 - o Form 809, Receipt for Payment of Taxes
 - o Form 1040-ES (Estimated Tax Declaration--Voucher).
 - o Federal Tax Deposits/EFTPS payments.
2. Whenever possible, use suitable posting documents containing all of the information needed for deposit and input into IDRS. Some documents may be brought up to such standards by adding information and coding and editing. To be acceptable for input, the posting document must identify the originator and contain:
 - A. Taxpayer name, last known address (including zip code), and identification number.
 - B. MFT and period.
 - C. Payment received date (on Form 4907, payment received date is "rec'd. date" block above tax amount block). Use the date the payment is actually received by the IRS.

NOTE:
However, if some other designated official/agency initially receives the remittance, e.g. the U.S. Attorney in foreclosure actions, use the date of receipt by that agency and enter a brief statement in the remarks section of the posting document to explain why the earlier date was used.
 - D. Payment amount(s) and transaction codes(s).
3. Prepare Form 3244 to process a payment if:
 - A. Form 809 receipt is either not required or can not be used as a posting voucher (See section 2.2.2 of this chapter.)
 - B. Form 4907 or other suitable posting document is not available.
4. Prepare payment documents (other than receipts) in original only.

[5.1] 2.1.1 (05-27-1999)

Postdated Checks

1. Do not solicit postdated checks. If a taxpayer pays with one, ask for a currently dated check, instead. However, local management may determine a period of postdating that does not warrant refusing a check or mailing one back to the taxpayer for replacement. Instead, these will be held in the Collection Support function until the date on the

check arrives. Write boldly in red on the posting document, "Postdated Check. Do Not Process Until ___" .

[5.1] 2.1.2 (05-27-1999)

Taxpayer Receipts

1. If the taxpayer pays in cash or asks for a receipt for any other payment, Taxpayer Receipts prepare a Form 809. Never give posting documents to taxpayers instead of Form 809 receipt. Notify the manager promptly if a taxpayer shows that anything other than Form 809 has been used as a receipt. Managers must report this to Inspection.

[5.1] 2.2.2 (05-27-1999)

Issuing a Form 809

1. When Form 809 is issued, keep Parts 1 and 3 in the book until they are submitted with the payment on the Group Daily Report or Form 795. Give Part 2 to the taxpayer. Cash must be converted to a bank draft or money order. Write the name of the bank or money order company, the serial number, and the date of the draft or money order on Part 3 of Form 809. See Section 2.1 of this chapter for instructions about converting cash.
2. If Form 809 is issued for a payment on a TDA that is assigned to another employee, put Form 809-A, TDA Posting Voucher, behind Part 3 of Form 809, and make a carbon copy of the receipt. Write the receipt number on Form 809-A, and give it to the employee who is assigned the TDA. The 809-A is used to post the payment to the TDA and, then, is attached to Form 795. (Instructions for Form 809 issued for Courtesy Investigations are in IRM 5.1, Chapter 8.)
NOTE:

The instructions for completing Form 809 are in Exhibit 5.1.2-1. If Form 809 is issued to a third party, see explanation 10 of the Exhibit.

3. When a Form 809 is prepared for payments received on notices and TDAs which will be input to IDRS, or for payments received on NMF notices which will be sent to the service center for posting, process as follows:
 - A. Part 1 may be used as the posting document.
 - B. Part 2 is the taxpayer's official receipt.
 - C. Part 3 is retained by the remittance processor and filed in numerical sequence for control purposes.
 - D. Part 4 is retained with the receipt book and serves as a log of issued receipts.
4. Since Form 809 is used as a posting document, prepare a separate receipt for each tax period covered by the payment.
5. When a Form 809 is prepared for payments with returns and the return itself serves as the posting document (or in any other situation where Part 1 of the Form 809 cannot be used as a posting document), process as follows:
 - A. Part 1 is stapled to the actual posting document and marked "Not a posting document--DO NOT Process" .
 - B. Part 2 is the taxpayer's official receipt.

- C. Part 3 (with Part 1 attached) is retained by the remittance processor for control purposes and filed in numerical sequence.
 - D. Part 4 is retained with the partially used book.
6. Issue Form 809 receipts in numerical order. Multiple revisions of Form 809 are currently in use and a record of issued receipts should be maintained in the manner appropriate to the version issued to the employee:
- A. For the four-part version of the receipt, Part 4 is retained with the partially used book.
 - B. If the version in use has lines on the inside cover for the date of the Group Daily Report or Form 795 used to send each receipt to CSf, enter this date as the receipt is written.
 - C. If an older version of the receipt is used which has neither the retention copy nor these lines, local management may require employees to enter these dates in the blank space on the inside cover.
7. Guidelines for the preparation of Form 809 in special cases:
- A. Follow instructions in IRM 5.10 Seizure and Sale Handbook relating to the issuance of Certificate of Sale.
 - B. See Exhibit 5.1.2-1 for issuing receipts for photocopy fees.
 - C. See IRM 5.1 General, Chapter 8 when issuing receipts relating to courtesy investigations.

NOTE:

See IRM 5.2, Reports relating to the preparation and submission of Form 795.

[5.1] 2.4.1 (05-27-1999)

Designated Payment Code

1. Use of a designated payment code (DPC) is mandatory on all Collection initiated posting vouchers for Transaction Codes 640, 670, 680, 690, 693, and 700. DPC's are two digit codes which serve a three-fold purpose. DPC's are for input to IMF and BMF only.
 - A. DPC's are used to facilitate identification of payments which are designated to trust fund or non-trust employment and excise tax liabilities. In such cases, DPC's 01 and 02 are input with payments to Form 941 (MFT 01), Form 720 (MFT 03), Form CT-1 (MFT 09), Form 943 (MFT 11), and Form 1042 (MFT 12).
 - B. DPC's are used to indicate application of payment to a specific liability when a civil penalty module contains both a Trust Fund Recovery Penalty and any other type of civil penalty. In these cases, DPC's 01 and 02 are input to MFT 55 only.
 - C. DPC's 01 through 14 and 99 are used to identify the event which resulted in a payment. This is done at the time that payment is processed and may be used with any MFT to which the payment transaction code will post. Data from this type of input is Congressionally mandated and will be accumulated on a national basis to determine the revenue effectiveness

- of specific collection activities.
2. DPC's which are valid for use by Collection Field function and the DPC definitions are as follows:

DPC	Definition
	Non-trust fund (alternate definition for MFT 55 only:
01	Applied to penalty other than Trust Fund Recovery (Penalty.)
02	Trust fund (alternate definition for MFT 55 only: Applied to Trust Fund Recovery Penalty.)
03	Undesignated bankruptcy payment
04	Levy on state income tax refund
05	Notice of Levy proceeds
06	Seizure and Sale
07	Federal tax lien
08	Suit
09	Offer in Compromise
10	Manually monitored installment agreement
11	Bankruptcy, designated to trust fund
13	Reminder Notice Deferred Payment
14	CSED expired, taxpayer authorized payment
15	Payment caused by a notice of levy but not a levy proceed
99	Miscellaneous payment other than 01 through 11 above

* DPC's through 11 and 99 are used to identify the event which was primarily responsible for the payment being made. The examples which follow illustrate some of the uses of specific DPC's and situations in which specific DPC's should not be used.

(A) EXAMPLE -- DPC 01, BMF Trust Fund Account: A payment is received on a Form 941 liability. A valid designation to non-trust fund is received. DPC 01 should be used. If no valid designation is received, use DPC 99.

(B) EXAMPLE -- DPC 01, IMF Civil Penalty Module: A payment is received on an MFT 55 civil penalty module which consists of a Trust Fund Recovery Penalty and a W-4 penalty.

(C) EXAMPLE -- DPC 02, IMF Civil Penalty Module: A payment is received on a liability. A valid designation to trust fund tax accompanies the check. DPC 02 should be used. If no valid designation is received, use DPC 99.

(D) EXAMPLE -- DPC 02, IMF Civil Penalty Module: A payment is received on an MFT 55 civil penalty module which consists of a Trust Fund Recovery and W-4 penalty. The payment is intended for the Trust Fund Recovery Penalty. DPC 02 should be used.

NOTE:

When a civil penalty module consists of two or more Trust Fund Recovery Penalties for the same period, DPC 02 cannot be used to designate a payment to a specific Trust Fund Recovery

Penalty assessment.

* Refer to the ADP Handbook for information on the use of Designated Payment Codes (DPC). Generally, when a payment is received on an assessed TFRP, DPC 01 -- Non-Trust fund or DPC 02 Trust fund, is used.

Chapter 3 -- Potentially Dangerous Taxpayers

[5.1] 3.1 (05-27-1999)

Potentially Dangerous Taxpayer

1. Criteria have been established to determine whether a taxpayer will be designated as "potentially dangerous" :
The following types of actions form the basis for a Potentially Dangerous Taxpayer (PDT) determination:
 - A. physical assault on employees or members of employee's immediate family
 - B. attempt to threaten or intimidate employees or members of employee's immediate family with a show of weapons, specific threats of bodily harm, the use of animals, or other specific threatening behavior
 - C. active membership in an organization that advocates violence against IRS employees specifically, or against Federal employees in general, where advocating such violence could threaten the safety of Service employees and impede the performance of official duties
 - D. commitment of the acts set forth in any of the above criteria, but directed against employees of other governmental agencies at Federal, State, County, or local levels
2. Taxpayers who are not classified as PDT's through application of these criteria, but who have demonstrated a clear propensity toward violence through acts of violent behavior to a serious and extreme degree within the five year period immediately preceding the time of classification, will be designated as potentially dangerous.

[5.1] 3.1.1 (05-27-1999)

Reports to Inspection

1. Report all incidents to Inspection. When preparing Form 4652, Assault, Threat of Assault, or Harassment Report:
 - A. cite the specific criteria or criterion met during the incident
 - B. furnish supporting evidence and verification for third party information
 - C. ensure the third party information is relevant to the administration of tax laws
 - D. supply the taxpayer's social security number or employer identification number

2. Prepare Form 4652 and forward it to Inspection if a threat to Service personnel is believed to exist, even if the information does not meet the established criteria.

[5.1] 3.1.2 (05-27-1999)

Inspection's Role

1. Inspection will review the incident report and make a recommendation to the District or Service Center Director where the incident occurred.

[5.1] 3.1.3 (05-27-1999)

PDT Determination

1. The PDT determination on Collection cases will be made by District and Service Center Directors. If the facts provided by Inspection are insufficient for Directors to make a determination, a "pending" designation will prevail until sufficient information becomes available to make a final determination.
2. District and Service Center Directors will:
 - A. review the incident report and all supporting documentation
 - B. make a final determination regarding whether the PDT code criteria have been met
 - C. contact Regional Inspection (when a positive determination is made)
 - D. request input of TC 016

[5.1] 3.1.4 (05-27-1999)

Regional Inspection

1. The Regional Inspector will contact the National Office Employee Protection Coordinator (Inspection) to forward any additional information or recommendation provided by the Director.

[5.1] 3.1.6 (05-27-1999)

PDT Code

1. Under the Servicewide PDT system, the PDT code (TC 016) input is restricted to the National Office EPC in Inspection.
2. The TC 016 will result in the literal indicator "PDT" on all subsequently issued IMF and BMF TDAs and TDIs.

[5.1] 3.1.7 (05-27-1999)

Reconsideration of PDT Code

1. Cases where a PDT code (TC 016) has been recommended, but not input, will be reviewed by the Chief, Collection Division. A request for reconsideration may be made to the District or Service Center Director.

2. If Inspection does not concur with a PDT determination, the decision may be appealed to Chief Counsel, who will make a final decision.

[5.1] 3.1.8 (05-27-1999)

PDT Alpha File

1. An alpha file of Forms 4652, Assault, Threat of Assault, or Harassment Report, containing information on PDT's (where a TC 016 has been requested), will be maintained in each district. The Chief, Collection Division (or District Director) and Service Center Directors will maintain and periodically review the file regarding the annual receipt of the Five Year Review Lists from Inspection. These lists indicate the PDT's scheduled for removal from the program.

[5.1] 3.1.9 (05-27-1999)

Five Year Review of PDT Records

1. A PDT will remain in the system for five years. Status will be reevaluated in January of each year by the Assistant Chief Inspector, Internal Security, with the assistance of Inspection's Regional and National Office PDT Coordinators.
2. The Regional PDT Coordinators will review the incident descriptions and background information of the established PDTs to determine if any of the following situations exist:
 - A. additional PDT referral after the five-year period under review
 - B. physical assault on an Internal Revenue Service (IRS) employee
 - C. arrests by Inspection, or other law enforcement agencies, for threat to, or assault on, an IRS employee
 - D. current IRS activity by the Criminal Investigation, Collection, or Examination Division at the time of the review
3. Any PDT who has been in the system for five years and meets one or more of the established criteria will retain the PDT indicator for an additional five-year period.
4. The National Office PDT Coordinator will remove the PDT indicators on those taxpayers who do not warrant retention as a PDT.

[5.1] 3.1.10 (05-27-1999)

Procedures for handling PDT coded Collection cases

1. Collection employees should be alert to PDT coded TDAs, TDIs, and IDRS printouts. See Exhibit 3-1-1 for a list of documents which display PDT indicators and for sample PDT coded documents.
2. Request access to Inspection's PDT database through your immediate supervisor before contacting a taxpayer on a newly assigned PDT coded case.

3. The immediate supervisor will contact the Regional Inspector's office by telephone and request information on the taxpayer who has been identified as a PDT. This information will be provided by telephone.
4. When information is requested on taxpayers who are not coded as PDTs, these same procedures will apply. However, there must be a basis in fact for believing a taxpayer may be violent. Managers will exercise discretion in making such requests.
5. The PDT alpha file, maintained in the Collection Division Chief's or District Director's office, is available for additional information regarding taxpayer's behavior. Information, when available, will be protected in accordance with the Manager's Security Handbook.
6. Consider alternatives to contacting a taxpayer in the field when a "potentially dangerous" designation is pending or the case is in PDT status. If field contact is necessary or anticipated, notify the Regional Inspector and consider armed escorts in all cases. Managers will follow established procedures for arranging for armed escorts.

[5.1] 3.2.4 (05-27-1999)

Form 4652, Assault, Threat of Assault, or Harassment Report

1. Use Form 4652 to report incidents to Inspection. This form can also be used to transmit information about individuals who are dangerous, but where no specific incident has occurred to an IRS employee, e.g., the taxpayer was recently convicted of assault, though not involving an IRS employee.

[5.1] 3.4 (05-27-1999)

Armed Escorts for Revenue Officers

1. If you are threatened with bodily harm by a taxpayer, or other circumstances develop which interfere with the administration of Internal Revenue laws, you may require protection. Revenue officers are not authorized to carry and or use firearms in performance of official duties. This restriction includes pepper spray, "Halt" , or any other intermediate weapon. However, you may request the assignment of an armed escort.
2. If an armed escort is necessary, inform your group manager of the facts and circumstances involved. If your manager determines an armed escort is justified, request the assistance of Criminal Investigation (CI). CI will assign two or more special agents as armed escorts.
3. To request an armed escort by CI, prepare a memorandum to the Chief, Criminal Investigation, through the Chief, Collection, detailing the facts and circumstances involved.
4. The Chief, Criminal Investigation must receive the request for assistance at least three business days prior to the date the armed escort is needed. This is to ensure that special agents and the revenue officer will have time to

- prepare a plan of action to assure the safety of all individuals involved.
5. Inspection will provide an armed escort in cases where an assault, threat, or incident is being investigated by Inspection or the taxpayer has been designated a potentially dangerous taxpayer (PDT). However, in some cases, because of resource limitations the Regional Inspector may request that Criminal Investigation provide the escort.
 6. Make the initial request to Inspection by telephone. If the request is the direct result of a recent threat or assault, prepare Form 4652, Assault, Threat of Assault, or Harassment Report, for Inspection giving the pertinent details.
 7. Revenue officers are required to secure an armed escort prior to personally contacting the subject of a narcotic trafficker assessment or investigation (any TDA, TDI, or OI involving an individual connected with narcotics trafficking) unless one of the following conditions exists:
 - A. the trafficker is in protective custody, or
 - B. information is available which clearly establishes that personal contact would not be dangerous (e.g., numerous prior contacts have been made without incident).

Exhibit [5.1] 3-1 (05/27/99)
List of "PDT" Coded Documents

The PDT condition will be reflected on the following:

- * NCC Transcripts (except Privacy Act Transcripts)
- * MRS Transcripts
- * FTD Alerts (BMF only)
- * IDRS Transcripts
- * TXMOD
- * ENMOD
- * SUMRY
- * AMDIS
- * TDAs
- * TDIs
- * AIMS Charge-outs (Form 5546)
- * AIMS Weekly Updates
- * Daily Transaction Registers (DTRs)
- * Delinquent Investigation/Account Listings (DIALs)
- * IMFOL
 - BMFOL

Chapter 4 -- Jeopardy, Termination, Quick and Prompt Assessments

[5.1] 4.1 (05-27-1999)
General

1. Jeopardy assessments are made when it is determined under IRC 6861 and 6862 or presumed under IRC 6867 prior to assessment that deficiencies of income, estate, gift and certain excise taxes will be endangered if regular assessment and collection procedures are followed.
2. IRC 6862 applies to taxes other than income, estate, gift and certain excise taxes whether or not the due date for filing and paying such tax has expired.
3. Termination assessment of income tax, IRC 6851, including terminations under the conditions described in IRC 6867 applies when the taxable year of a taxpayer has not ended or when the taxable year has ended but the due date, determined with respect to extensions, for filing the return has not arrived.
4. All jeopardy and termination assessments must be in full compliance with policy statement P-4-88 or P-4-89.
5. A potential jeopardy or termination assessment may develop as the result of information received from a confidential informant. The source of the information must not be divulged to the taxpayer or other unauthorized personnel.
6. A collection employee will be designated to work with the IRC 6700 committee on determinations as to whether the collection of penalties asserted against abusive tax shelter promoters is in jeopardy. In addition to the collection representative, the committee will include representatives from Examination, Criminal Investigation Divisions and District Counsel.

[5.1] 4.2 (05-27-1999)

Jeopardy Assessments, Pre-Assessments

1. Jeopardy assessments initiated by Collection personnel are limited to proposed:
 - A. Trust Fund Recovery assessments
 - B. Employment and excise tax assessments, whether or not the return due date has expired
 - C. Partnership penalty assessments
 - D. Income tax assessments when there is no question as to the amount of the liability.
2. A jeopardy assessment is requested when:
 - A. A determination is made that collection is in jeopardy
 - B. One or more of the four conditions outlined in P-4-88 exists
 - C. Trust Fund Recovery assessments, 6020(b) assessments, on appropriate appeal/protest periods have not expired
 - D. Assessment/collection action is being proposed prior to the return due date for a signed return for income tax liabilities
3. Refer to Examination Function, information which could lead to a jeopardy assessment of a proposed transferee liability, disputed additional income taxes or any other tax liability.
4. Prepare Form 2644, Recommendation for Jeopardy

Assessments/Recommendation for Termination Assessments for all jeopardy assessments.

5. A report setting forth the conditions and factors in support of the recommendation and submit in all cases to the extent practicable:
 - o Name, address and taxpayer identification number (TIN)
 - o Tax, penalty and interest to be assessed by period
 - o Nature of the taxpayer's business or activity
 - o Taxpayer's present financial condition
 - o Information regarding the taxpayer's activity giving rise to the recommendation, such as transfer of assets without consideration;
 - o Records or statements with respect to continuing business or personal losses
 - o Filing record of taxpayer
 - o Taxpayer's record for resisting payment of taxes in the past (collection delays and unpaid taxes)
 - o Nature and location of the taxpayer's assets and the source(s) of income
 - o Statement as to the factual basis for the determination of taxable income and a schedule showing how the tax was computed
 - o Other information having a bearing upon the taxpayer's financial condition, future anticipation of losses, etc.

[5.1] 4.3 (05-27-1999)

Approval Prior to Jeopardy Assessment

1. Due to the urgency involved in jeopardy assessments, the file will be given the highest priority of handling within and between various divisions.
2. Refer to Delegation Order No. 219 for delegation authority.
3. As a result of the enactment of the IRS Restructuring and Reform Act of 1998 on July 21, 1998, it is now a statutory requirement that the Chief Counsel or his/her delegate must approve all jeopardy and termination assessments and all jeopardy levies. This authority has been redelegated to Regional Counsel, who may redelegate the authority no lower than Assistant District Counsel and to the Associate Chief Counsel (International) who may redelegate the authority no lower than Branch Chief. Approval is now required by Counsel in ALL cases, not just in cases where time permits.
4. Obtain Counsel's signature on Form 2644, Recommendation for Jeopardy/Recommendation for Termination Assessments. Approval via fax are permitted.

[5.1] 4.4 (05-27-1999)

Termination Pre-Assessment Recommendations

1. Collection personnel will not initiate termination assessment recommendations.
2. Refer information which could lead to a termination

assessment to the Examination Division for appropriate action.

[5.1] 4.5 (05-27-1999)

Responsibility of Chief Collection Division

1. Prior to approval by the district director, the Chief of the Collection function will:
 - A. Review all termination and jeopardy assessment recommendations, including those initiated by the Examination and Criminal Investigation Divisions
 - B. Discuss disputed cases with the originating division.
 - C. Document and report unresolved issues to the director, who has final responsibility for determining that collection of the proposed tax liability is in jeopardy.

[5.1] 4.6 (12-13-1999)

Assessment and Post Assessment Procedures

1. Immediately after the district director has approved the jeopardy or termination assessment, the tax will be assessed by a telephone call to the Service Center. Furnish the following information:
 - A. Date that the District Counsel approved the assessment
 - B. Name and address of the taxpayer as well as taxpayer identification number (TIN), if known
 - C. Type of tax
 - D. Taxable period or date
 - E. Amount of tax, including penalty, if applicable
 - F. Amount of any payments and balance
 - G. Input TC 570 as a secondary transaction when posting payments to avoid the possibility of erroneously refunding credits.

NOTE:

The assessment will take approximately six weeks to post to the Masterfile.

2. Form 3552 (Parts 3 and 4), Prompt Assessment Billing Assembly, may be completed and used to provide Notice and Demand. On Parts 3 and 4 of Form 3552:
 - A. Change the statement in the first sentence from "should be paid within 10 days from the date of this notice" to "is due and payable immediately."
 - B. Delete the last portion of the third sentence which states, "and send it with this notice to the address shown above."
 - C. Delete the statement, "Please return this copy with your payment to the address shown above" from the bottom of this form.

NOTE:

If a blank Form 3552 is not available, copy the text of one on IRS letterhead stationery.

3. After the tax is assessed, provide the taxpayer within 5 days of assessment the following:
 - A. Notice and Demand to pay the tax

- B. Notice of Jeopardy or Termination Assessment
- C. Computation of income and tax
- D. Notification of right of appeal and right of review under IRC 7429 and IRC 6330.
(See Exhibit 4-1, Pattern Letter P-513, Notice of Jeopardy Assessment Right of Appeal; Exhibit 4-2, Pattern Letter 1583(P), Notice of Termination Assessment of Income Tax and Exhibit 4-3, Pattern Letter 2439(P), Notice of Jeopardy Levy and Right of Appeal.)

NOTE:

For jeopardy and termination assessments under the circumstances described in IRC 6867 the individual found in possession will be notified that he/she is not entitled to review under IRC 7429 and no notice of right of appeal is provided (see IRC 6867(b)(c)). However, a termination or jeopardy assessment under IRC 6867 is appealable to the Appeals Office.

- E. Personally deliver notices when possible.

If the taxpayer ...	Then ...
Cannot be located	Send by certified mail to the last known address of the taxpayer.

Check IDRS for a new address.

No longer resides at the address on the assessment	Review the jeopardy or termination file for the taxpayer's current residence.
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* Determine whether to file a Notice of Federal Tax Lien (NFTL).

If ...	Then ...
The taxpayer does not full pay the amount of the assessment upon issuance of the Notice and Demand	File a Notice of Federal Tax Lien through the Automated Lien System (ALS).

Immediate action should be

It is determined that the filing of the lien will not ensure that the taxpayer will	liquid assets of the taxpayer in the possession of third parties.
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not dispose of, dissipate, or hide personal property	Note: IRC section 6863 provides conditions for the stay of collection of jeopardy or termination assessments.
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* Internal Revenue Code sections 6851 and 6867 provide for the assessment (termination) and collection of tax associated with cash amounts in excess of \$10,000 when the cash has been seized by law enforcement authorities and the owner cannot be identified. Collection of these assessments comes from the cash itself not from the possessor's personal assets.

- A. Establish a "dummy" account on NonMasterfile styled "Possessor's Name, as Possessor of Certain Cash" .
- B. Abate the remaining balance when the entire assessment is not collected.

[5.1] 4.7 (05-27-1999)

Liaison

1. Effective administration of jeopardy and termination assessment procedures require the close cooperation of all involved Service personnel.
2. The Special Procedures function (SPf) has overall responsibility or liaison between the:
 - o Examination
 - o Collection
 - o Criminal Investigation
 - o Appeals office
 - o District Counsel
3. Responsible Service employees must keep the Chief, SPf informed of the status of the case.

If ...	Then SPF will...
The taxpayer commences a proceeding in the district court to review the action taken by the Service	Transmit the administrative file to District Counsel within one workday. Advise appropriate personnel that such an action has not been commenced.
The taxpayer files a civil suit at any time prior to conclusion of the administrative appeals	Request the entire file. Advise the taxpayer to submit a written request signed under the penalties of perjury to the district director marked previously assessed under IRC 6867 for the attention of the Chief of SPf. The written request will include the following:
a. Name, address, and social security number of the person submitting the request	
b. Detailed description of the property levied upon, if other than cash; if cash, state the exact amount seized.	
c. Description of the claimant's basis for claiming the property levied upon as belonging to the claimant.	
d. Name and address of the "Possessor" of the cash or cash equivalent (the person who was originally found to be in possession of the cash and who denied its ownership and did not properly identify the true owner).	
e. Originating Internal Revenue district, the date of lien or levy as shown on the Notice of Tax Lien (Form 668(v)), Notice of Levy (Form 668-A) or Levy, (Form 668-B) or, in lieu thereof, a statement of the reasons why such information cannot be furnished.	

If...	Then...
	SPF should notify the claimant as soon as possible of the right

The request is submitted to bring suit against the government under provisions of IRC 7426 or for an administrative appeal with the Appeals Office.

Refer the claim to the Examination Division for consideration and are claim is valid responsible for abating any overassessment and refunding the overassessment to the claimant if applicable.

Examination Divisions will notify SFf of their determination so that SPf can arrange for disposition of any non-cash items seized.

There is any litigation filed against the government SPf will notify Examination because of a jeopardy Division and furnish a copy of assessment made under IRC the third parties claim unless 6867 previously furnished.

[5.1] 4.8 (05-27-1999)

Processing Abatements

1. Collection personnel will prepare Form 3870, Request for Adjustment, to decrease tax, penalty and interest as determined by Appeals or District Court.
2. Regulations providing requests for abatements of jeopardy assessments are considered to refer to taxpayers' requests for administrative review of jeopardy assessments. However, some jeopardy assessments may be abated in whole or in part by the director if he/she finds, without taxpayer's written request for review, an error in fact, judgment or computation.
3. District Court orders to abate all or a part of the tax should be relayed by district counsel to SPf, who will return any files to the initiating office, for immediate processing of the abatement.
4. When the district court order is based on a determination that the collection of the tax was not in jeopardy, the Examination Division will reestablish the taxpayer's filing requirement and ensure examination of the taxpayer's current year return.

[5.1] 4.9 (05-27-1999)

Quick Assessment

1. Quick assessment procedures are required when the assessment statute expires in 90 days and is limited to the following situations:
 - A. Additional taxes and agreed deficiencies when the statutory period for assessment will expire before assessment action can be completed under regular procedures.

- B. Deficiencies or current additional and delinquent taxes where receivership proceedings are involved or imminent (per IRC 6871).
- 2. A quick assessment:
 - A. Does not provide authority to make immediate demand for payment of the tax liability assessed.
 - B. Allows the taxpayer the statutory ten-day period in which to pay and the 30-day "notice of intent to levy" period under IRC 6331(d).
 - NOTE:
 - If the taxpayer is in a receivership or probate proceeding, an immediate proof of claim may be filed.
 - C. Will not change (update) the existing masterfile entity information.
 - NOTE:
 - Use Form 2363, Masterfile Entity Change, to change the masterfile entity to agree with the information on that return.
- 3. To eliminate unpostable, conditions a transcript of the module involved will be researched, if practical, to determine if:
 - A. Module is established on Masterfile
 - B. TIN and name line agree with the Form 2859C, Collection Request for Quick or Prompt Assessment, information
 - C. Tax period was not previously assessed
 - D. No freeze codes exist
 - E. Proper transaction codes are being input and are not duplications
 - F. Taxpayer is in bankruptcy

[5.1] 4.10 (05-27-1999)

Methods to Request Quick Assessments

- 1. Quick assessments may be requested using the following methods:
 - o Telephone Requests when 30 days remain on the assessment statute
 - o Facsimile (FAX) Requests

NOTE:

The facsimile method must be approved and implemented at the discretion of each regional office and in concert with Service Center Accounting Branches.

[5.1] 4.11 (05-27-1999)

Quick Assessments on Trust Fund Recovery Penalty

- 1. A quick assessment of a proposed trust fund recovery penalty may be made if expiration of the statutory assessment period is imminent and a waiver extending the assessment period cannot be obtained, or if a proof of claim covering the liability is to be filed in a receivership, probate, or bankruptcy proceeding in which section 362(a) of the Bankruptcy Code no longer precludes such assessment.
- 2. Taxpayer Bill of Rights 2, enacted on July 30, 1996, included a special statute of limitations provision in IRC

6672(b) along with a requirement to send a 60 day preliminary notice before assessing the trust fund recovery penalty. The letter 1153 (DO) is this notice, which Collection will send with a certificate of mailing. When the 60 day notice is issued before the expiration of the assessment statute, the statute will not expire before the later of 90 days after the 60 day notice was mailed, or 30 days after Appeals "final administrative determination" if there's a timely appeal.

3. When a quick assessment is made on an unagreed liability, the taxpayer shall be afforded the same appeal rights, without prior payment and claim for refund, that are available to a protesting taxpayer prior to assessment.
4. All collection action should be withheld until the administrative appeal rights have been exhausted.

[5.1] 4.12 (05-27-1999)
 Prompt Assessments

1. A prompt assessment is a manually processed assessment of a secured return where collection appears to be at risk and the intention is to proceed with collection action immediately following the period for Notice and Demand.
2. A prompt assessment for Trust Fund Recovery Penalty may be made only after the taxpayer:
 - A. Executes Form 2751
 - B. Responds or did not respond to the 1153, 60 day letter
 - C. Completes the Appeal process
3. A prompt assessment of employment, excise, and partnership tax returns prepared and signed under authority of IRC 6020(b) may be requested provided that Letter 1085(DO), 30 day letter, Proposed IRC 6020(b) assessment, or Letter 1616(DO), 30 day Letter, Proposed IRC 6020(b) Assessment (Partnership Return) has been sent to the taxpayer and the appeal period has lapsed.
4. The initiator must always determine prior to the recommendation:

<p>If the taxpayer is... In bankruptcy prior to initiating a prompt assessment Quickly placing property beyond the reach of the government An in business pyramiding, taxpayer</p>	<p>Then Contact SPF. Except for Trust Fund Recovery Penalty , collection action may be pursued although the 10 day notice and demand period and the 30 day notice of intent to levy has not expired. Refer to Jeopardy Levy Without a Jeopardy Assessment. Do not do a prompt assessment where the proposed plan of action is to enter into an installment agreement.</p>
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* The initiator will establish and document in the case history a plan of action for ultimate resolution of the balance due. A

prompt assessment will not be recommended in the following instances:

- A. Taxpayer will be granted or already has an existing installment agreement
- B. Assessment will be reported as currently not collectible
- C. No distrainable assets
- D. Pyramiding tax liabilities and no enforcement action is pending.

* All applicable penalties must be computed by the revenue officer.

[5.1] 4.13 (05-27-1999)

Methods to Request Prompt Assessments

1. Prompt assessments may be requested using the following methods:
 - o Telephone Requests when there is 30 days or less left on the assessment statute
 - o Facsimile (FAX) Requests

NOTE:

The facsimile method must be approved and implemented at the discretion of each regional office and in concert with Service Center Accounting Branches.

[5.1] 4.14 (05-27-1999)

Processing Telephone Prompt and Quick Assessments

1. The initiator should complete Form 2859C (I) Individual, or (B) Business prior to initiating the telephone call. The Form 2859C (I) Individual, or (B) Business and appropriate tax returns and attachments will be mailed immediately to the Service Center.
2. Upon receipt of the telephone request, the Service Center Accounting Branch will:
 - o Assign a Document Locator Number (DLN)
 - o Journalize
 - o Prepare a separate Assessment Certificate
 - o Notify the initiator of the appropriate DLN and Assessment 23-C date.
3. Annotate in red Form 2859C (I) Individual or (B) Business in the Remarks section as follows:
 - o "Telephone Request"
 - o "Agreed Prompt" -- for a second return
 - o "Unagreed Prompt" -- for a 6020(b) return
 - o "Agreed Other" -- for Trust Fund Recovery Penalty
 - o "Unagreed Other" -- for Trust Fund Recovery Penalty
4. Attach returns to Form 2859 and annotate returns "Back-up for Prompt or Quick Assessment" (whichever is applicable).
5. Distribute Form 2859C (I) or (B) with back-up documents as follows:

If the requested assessment is...

Then...

Not for a TFRP a. (B) Business, Parts 1, 2, and 3 with tax return(s) to the Service

Center Accounting Branch.

- b. Retain Part 4 as the initiator's file copy.

For a TFRP

Forward to:

Service Center Accounting Branch
Form 2859C (I) Individual, or (B)

- a. Business, Parts 1 and 2 and Form 2749, Request for Trust Fund Recovery Penalty Assessment, Parts 1 and 2.

Service Center Collection Branch

- b. Form 2859C (I) Individual, or (B) Business, Part 3 and Form 2749, Parts 3 and 4.

Special Procedures function Form

- c. 2749, Part 5 with the Trust Fund Recovery penalty administrative file.

A photocopy of Form 2859C (I) Individual, or (B) Business may be

- d. attached to Form 795, Daily Report of Collection Activity at local option.

Form 2859C (I) Individual, or (B)

Business, Part 2, Acknowledgment,

- Notewill be returned by the Accounting Branch to be associated with the case file.

* Routinely process any payment received with the tax return.

* Processing Form 3552:

If the initiator...

Then...

Requested the preparation of the Form 3552 Service Center will prepare the Form 3552 and will forward Parts 3 and 4 to the initiator.

Did not request the preparation of Form 3552 The initiator will:

- a. Prepare Form 3552.
Immediately deliver or mail
- b. certified, Parts 3 and 4, along with Publication 1 to the taxpayer.
Match the manually prepared Form 3552 with IDRS when the
- c. assessment has posted to masterfile for verification of amounts and other information.
Take appropriate corrective
- d. actions if errors are discovered.

* When a quick or prompt assessment of a Trust Fund Recovery penalty is made, the initiator will inform the taxpayer of any appeal procedures available. This will be done by furnishing Letter 2460(DO).

[5.1] 4.15 (05-27-1999)

Processing Facsimile (FAX) Quick and Prompt Assessments

1. CAUTION: Facsimile procedures are available as an alternate method only if the region and service centers have approved implementation of this process.
2. In order for the Service Center Accounting Branch to receive a legible copy of transmitted documents, all forms must be transmitted as original documents. Do not use photocopies of Forms 2749, 2859T, 2859C (I), or (B).
3. If a quick or prompt assessment facsimile request is recommended, the initiator will:
 - A. Prepare Form 2859C (I) Individual, or (B) Business (I), Collection Request for IMF Quick or Prompt Assessment (see Exhibit 5300-8), or 2859C (B), Collection Request for BMF Quick or Prompt Assessment.
 - B. Prepare Form 2859T, Prompt or Quick Assessment Transmittal Request.
 - C. Send a photocopy of Form 2859C (I) Individual, or (B) Business to the Chief, Special Procedures function if receivership proceedings are involved.
 - D. Forward Forms 2363 and 4844 to the appropriate district office function for input. Do not attach these forms to the 2859C or the return.

If the requested
assessment is...

Then

- for a TFRP assemble the package for facsimile transmission in the following order to:
- a. Service Center Accounting Branch:
 - [bullet image] Form 2859T
 - Form 2859C (I)
 - [bullet image] Individual, or (B) Business, Part 1

 - [bullet image] Form 2749, Parts 1 and 2
 - b. Service Center Collection Branch
 - [bullet image] Form 2859T
 - Form 2859C (I)
 - [bullet image] Individual, or (B) Business, Part 3

 - [bullet image] Form 2749, Parts 3 and 4

Note: If SCCB does not have FAX equipment, mail items 2 and 3 above.

not for a Trust assemble the assessment package for
Fund Recovery facsimile transmission in the following
penalty order:

- a. Service Center Accounting Branch.
 - [bullet image] Form 2859T
 - Form 2859C (I)
 - [bullet image] Individual, or (B) Business, Part 1

[bullet image] Tax returns, including
all attachments

b. Service Center Collection Branch:

[bullet image] Form 2859T
Form 2859C (I)

[bullet image] Individual, or (B)
Business, Part 3

Service Center Collection Branch

Note: does not need a copy of the tax
return.

* Upon receipt, the Service Center Accounting Branch will process the request and either fax the appropriate form, or will telephone acknowledgment of receipt along with the 23-C date and the DLN with corrections to the computation, if necessary, to the initiator immediately.

* Once the initiator has received acknowledgment of receipt, the summary date of assessment and a DLN, the original returns must be destroyed.

A. Do not maintain the original returns in the closed case file. Chief Counsel has approved destroying the original return which allows the Internal Revenue Service to treat the hard copy FAX as an original return for legal purposes.

B. Do not send the original returns to the Service Center, as doing so could cause a duplicate filing condition.

[5.1] 4.16 (05-27-1999)

Mathematical Errors

1. When a Service Center discovers a math error on a return submitted for a prompt assessment, they will:

A. Prepare the Form 3552 and indicate the math error amount.

B. Isolate the math error and show in the Reference and T.C. sections as "Additional Assessment (M.E.)-290."

2. When the taxpayer is given notice of the liability:

A. Explain parts 3 and 4 of the Form 3552, i.e., the math error assessment.

B. Advise them of their appeal rights

C. Collection action will not be pursued on the math error amount on a contested assessment.

D. Advise the taxpayer to address the request for abatement to the service center.

Exhibit [5.1] 4-1 (05-27-1999)

Pattern Letter P-513 (Rev. 5-78)

(Reference: IRM 5.1.4.6)

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(Type on Appropriate Letterhead)

NOTICE OF JEOPARDY ASSESSMENT AND RIGHT OF APPEAL

Exhibit [5.1] 4-1 (05-27-1999)

Pattern Letter P-513 (Rev. 5-78)

(Reference: IRM 5.1.4.6)

(Salutation)

Under section (insert 6861, 6862 or 6867) of the Internal Revenue Code, you are notified that I have found you (insert reason for asserting the jeopardy assessment) thereby tending to prejudice or render ineffectual collection of (insert type of tax) for the period_____. Accordingly, based on information available at this time, I have approved assessment of tax and additional amounts determined to be due as reflected in the attached computations:

 Taxable Period Tax Penalty Interest

Under section 7429 of the Internal Revenue Code, you are entitled to request administrative and judicial reviews of this assessment action.

For an administrative review, you may file a written protest with the District Director within 30 days from the date of this letter, requesting redetermination of whether or not:

1. the making of the assessment is reasonable under the circumstances, and
2. the amount so assessed or demanded as a result of the action is appropriate under the circumstances.

A conference will be held on an expedite basis to consider your protest. Your protest will be forwarded to the Regional Appeals Office where a conference will be held.

If you submit new information or documentation for the first time at an Appeals conference, the Appeals Office may request comment from the District Director on such evidence or documents.

Enforced collection action may proceed during any administrative appeal process unless arrangements are made regarding collection of the amount assessed. To make such arrangements, please contact (indicate name and telephone number of appropriate district office official).

You may request a judicial review of this assessment by bringing a civil suit against the United States in the U.S. District Court in the judicial district in which you reside, or in which your principal office is located. However, in order to have this action reviewed by the District Court, you must request administrative review within 30 days of the date of this letter. Such suit must be filed within 30 days after the earlier of (1) the day of the Service notifies you of its decision on your protest, or (2) the 16th day after your protest. The Court will make an early determination of the same points raised in your protest to determine whether the making of the assessment is reasonable under the circumstances, and whether the amount assessed or demanded is appropriate under the circumstances. The Court's determination is final and not reviewable by any other court.

Appeal to the courts in Case of Income, Estate, Gift and Certain Excise Taxes

If an agreement is not reached with the Internal Revenue Service, a notice of deficiency is required

by law to be issued within 60 days from the date of jeopardy assessment made under section 6861 of the Internal Revenue Code. You will then have 90 days (150 days if outside the United States) from the date the notice is mailed to file a petition with the United States Tax Court.

Appeal to Courts In Case of Other Taxes Assessed Under IRC 6862

Claim for credit or refund of taxes assessed under section 6862 of the Internal Revenue Code may be filed in accordance with section 6511(a) of the Code of administrative and judicial review of the merits of the liability assessed. An administrative decision on the claim may be appealed to the courts under the provisions of section 7422(a) of the Code.

Chapter 5 -- Balancing Civil and Criminal Cases

[5.1] 5.1 (05-27-1999)

Special Procedures Responsibility

1. Special Procedures is responsible for:
 - A. Coordination of all civil enforcement action on cases under criminal investigation
 - B. Ensuring that civil enforcement action is taken to collect the revenue where appropriate
 - C. Control and monitoring of criminal investigation cases where civil action has been suspended.
2. Refer to Policy Statement P-4-84, Criminal and civil aspects in enforcement.

[5.1] 5.2 (05-27-1999)

Processing Form 4135, Criminal Investigation Control Notice

1. The Criminal Investigation (CI) function will use Form 4135, Criminal Investigation Control Notice, to:
 - A. Request input of CI controls
 - B. Alert the Collection function of a criminal case and the need for coordination
2. Upon receipt of Form 4135 Special Procedures function will:
 - A. Verify input of CI controls on IDRS.
 - B. Notify CI when not to input all periods on the Form 4135.
 - C. Maintain a Criminal Investigation Hold File.

If...

Then...

TC 914, Active Criminal Investigation Prepare an inventory control card and case

folder.

[bullet image] TC 910,

Intelligence Hold

[bullet image] TC 916, Active file form 4135 in an alphabetical file.

Criminal Investigation Refund

Scheme Exception: Prepare a case

[bullet image] TC 918, file for probation cases.

Criminal Investigation Refund

Scheme

[5.1] 5.3 (05-27-1999)

TDA/TDIs with TC 914 and TC 916 Controls

1. For modules on which a TC 914 has been input, collection will generally be suspended.
 2. If collection believes the facts support continuation of civil action, Spf will:
 - A. Discuss with CI any facts that support continuation of civil action and request CI's concurrence to pursue the civil aspects
 - B. Initiate a memorandum to the District Director explaining the facts of the case and requesting the District Director's written approval to pursue civil enforcement actions when an agreement cannot be reached with CI to proceed with civil enforcement action.
 3. When collection is authorized in writing by the District Director against a module under criminal investigation,
 - A. Issue Form 2209, Courtesy Investigation to CFF to conduct an investigation concerning taxpayer assets, etc.
 - B. Clearly indicate that the taxpayer is under criminal investigation.
 4. For TDA/TDI received from the service center on taxpayers on which there is a TC 914 or TC 916 on a different module SPf will:
 - A. Annotate each case (TDA and/or TDI) with the name and telephone number of the special agent assigned to the criminal investigation.
 - B. Forward them to Collection Field function for assignment to a revenue officer.
- NOTE:
- If TDA/TDI is already assigned to a revenue officer when Form 4135 is received, then:
- A. Provide the revenue officer with the name and telephone number of the special agent
 - B. Notate on the back of Form 4135 the actions taken and the date.
5. When processing TDA/TDI cases on which collection will be suspended and received from the revenue officer, Spf will:
 - A. Ensure cases reflect an IDRS TSIGN to DOAO6993.
 - B. Request input of STAUP 91 to periods in IDRS status 26.
 - C. Associate TDA/TDI file with case folder.

[5.1] 5.3.1 (05-27-1999)

Revenue Officer's Action for TDA/TDI Controlled Cases

1. Before taxpayer contact, revenue officers must contact the special agent to discuss potential problems, if any, that may arise if personal contact is made with the taxpayer.
2. A determination not to make personal contact with the taxpayer does not automatically result in suspension of collection activities.
3. Determinations on suspending collection action must be in accordance with Policy Statement P-4-84 and the criteria set forth in Section 5.2 of LEM V.
4. Take the following actions where it is agreed contact can be made:

If...	Then...
it is decided that contact should be made with the taxpayer	the revenue officer and special agent will determine if a special agent will accompany the revenue officer on the first contact with the taxpayer.
joint contact is made by the special agent and revenue officer	a joint memorandum of contact will be prepared and signed by both.
contact is made only by the revenue officer	a. Prepare and sign memorandum of contact. b. Promptly furnish a copy to the special agent.

* Collection personnel will not issue any summons to taxpayers under criminal investigation.

* Taxpayers will not be requested to provide collection information statements unless, immediately before the request is made, the special agent advises the taxpayer that he/she is not required to furnish the collection information statement and that it could be used in any criminal proceedings against him/her.

* Alternative investigative methods of discovering the taxpayer's assets must be used if the taxpayer fails to make voluntary payment or submit a collection information statement. The revenue officer will request from the special agent any collection information in the CI file on the taxpayer.

* Take the following actions when there is a disagreement on whether collection should be pursued:

If...	Then...
there's a disagreement between the Collection and Criminal Investigation functions as to whether contact should be made	the Chief, Collection function and Chief, Criminal Investigation will attempt to resolve the matter.
no resolution can be reached	Criminal Investigation will refer the matter to the district director for his/her approval to suspend civil enforcement action on a module not included in a criminal investigation.

The district director approves CI's request CI will cause input of TC 914 and control the case.

* The revenue officer will take the following actions when

processing TC 914 and TC 916 controlled cases on which collection will be suspended:

- A. Request IDRS TSIGN of DOAO6993.
- B. Forward TDA/TDI files by transmittal to SPf.

* Spf will request input of Staup 91.

[5.1] 5.4 (05-27-1999)

SPf Actions Upon Receipt of CI's Quarterly Inventory Listing

1. SPf will receive a quarterly inventory listing from the CI function which will be in alphabetical order and identify all modules the CI function has placed under control.
2. SPf will:
 - A. Monitor CSED/ASED.
 - B. Match the Criminal Investigation Hold File against the quarterly listing
 - C. Resolve differences through contact with CI function.
3. When it is determined that the dollar amount of the case is sufficient to warrant collection action contact CI for their concurrence to secure a waiver or take civil collection action.
4. After receiving CI concurrence, initiate a memorandum to the district director explaining the facts of the case and requesting the district director's written approval to pursue civil enforcement actions.

[5.1] 5.5 (05-27-1999)

Disposition of Case when CI Closes Control

1. When the CI function closes its investigation Form 4135 will be sent to Spf indicating that a TC 912 has been input to close a TC 914 or TC 916 control.
2. Spf will verify the information on IDRS.

If...	Then...
TC 912 was not input	notify CI to request input.
TC 912 was input and there are no TDA/TDI file Form 4135 in the closed file. files cases have assignment code DOAO6993	request TSIGN of these accounts to Cff, using local procedures. <ul style="list-style-type: none">[bullet image] retain the case file to monitor the probation aspects,[bullet image] Include a copy of TC 910, probation, has been input the decision document setting forth the tax settlement conditions.[bullet image] Refer to Working Probation Cases Upon Tax Settlement.

* New TDAs and IMF and BMF TDIs will be generated when TC 912 is input to modules in system monitored Status 91 to cancel TC 914 controls.

[5.1] 5.6 (05-27-1999)

Working Probation Cases Upon Tax Settlement

1. Following conviction for a criminal tax violation, courts in some instances specify that probation of the sentence imposed is conditioned on payment of the civil tax liability.
2. Taxpayers in probation cases will still be considered to be part of the Balancing of Criminal and Civil Aspects Enforcement Program. This requires:
 - A. Coordination between Criminal Investigation, Examination and Collection, to assure that the court is notified of any noncompliance.
 - B. Criminal Investigation Division to notify Collection of the conditions of the probation
 - C. Collection to keep Criminal Investigation informed of the status of the case.
3. Upon notification by CI of the conditions of probation, SPf will:
 - A. Annotate its existing "TC 914 File" to read "TC 910 Probation File" .
 - B. Associate TDA's held in the Criminal Investigation Hold File with reissued TDAs and assign to revenue officers for collection action.
 - C. Annotate the TDAs, in the Master File History section, "Probation Case" in red and attach a copy of the decision document.
 - D. Refer questions as to the limitations imposed on the Service by the Court order to District Counsel for resolution.
4. The revenue officer will take the following actions for settlement of tax.

If...	Then...
it is determined that a taxpayer is attempting to avoid settlement of the tax or determined that the tax is not collectible within the period specified in the case	the revenue officer will inform SPf by memorandum.

a tax has not been fully satisfied 180 days prior to the expiration of the probationary period specified in the case	[bullet image] Chief, Collection function, will by memorandum inform the Chief, Criminal Investigation function, of payments made by the taxpayer and the extent and results of collection actions in the case. [bullet image] Chief, Criminal Investigation function will report the taxpayer's failure to comply with the terms of the probation to district counsel or the U.S. Attorney.
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a tax liability is satisfied in full	the Chief, Collection function will
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within the probationary period specified in the case notify the Chief, Criminal Investigation function by memorandum.

[5.1] 5.6.1 (05-27-1999)

Disclosure of Return Information to U.S. Probation Officer

1. IRC 6103(h)(4) allows disclosure of returns and return information to a U.S. Probation Officer for the purposes of informing the court of any noncompliance by a taxpayer during such taxpayer's probationary period under the following circumstances:
 - A. Information on Return(s) must relate to a taxpayer convicted of a criminal tax violation.
 - B. U.S. Probation Officer must be charged with the responsibility of determining whether such taxpayer is complying with the terms of probation that relate to the Internal Revenue Laws.
 - C. Information on return(s) are limited to those years specified in the conditions of probation issued by the Court, or to the conviction years and those years for which the taxpayer is placed on probation.
 - D. Disclosure of the returns and return information would not identify a confidential informant or seriously impair a civil or criminal tax investigation.
2. Any disclosure to a U.S. Probation Officer will be coordinated with the district Disclosure Officer.

[5.1] 5.6.2 (05-27-1999)

Actions When Taxpayer Relocates to Another State

1. In cases where the court has given the taxpayer permission to relocate to another state, SPf will take the following actions:
 - A. Contact the CI function for the name, telephone number and address of the new probation officer.
 - B. Prepare a memorandum from the Chief, SPf to the Chief, SPf of the receiving district stating that the case is being transferred. Attach a copy of the file (including court orders and contact information for the new probation officer) and a Form 3210.
 - C. The forwarding function will take the necessary steps to close the case in his/her district upon receipt of the Form 3210 acknowledgment.
 - D. The receiving SP function will contact the local CI function to ensure that the appropriate transaction code (TC 910) has been input.
 - E. Monitoring the conditions of probation is the responsibility of the receiving SP function.

EXCEPTION:

In some instances the courts will allow a taxpayer to relocate but will retain control of the case. In these instances, cases should not be transferred.

[5.1] 5.7 (05-27-1999)

Cases Under Jurisdiction of the Chief Counsel or the Department of Justice

1. The district director, in the transmittal memorandum forwarding the case to district counsel will specify:
 - A. Pending civil matters
 - B. Outstanding liabilities of the taxpayer and related entities and modules.
 - C. Civil action taken on any outstanding liabilities.
 - D. Actions the district director plans to take on these accounts in the event District Counsel (and, when appropriate, the Department of Justice) concurs with the District Director's consideration that the proposed civil action will not prejudice the pending criminal features.
2. With respect to collection activity, the following information should be included:
 - A. Dates of assessment for all periods for which collection action is proposed.
 - B. Balance owing on the assessed amounts
 - C. Assets owned by the taxpayer
 - D. Value of the taxpayer's assets
 - E. Other claims, if any, against the taxpayer's assets.
 - F. Conclusion as to whether personal contact with the taxpayer would be necessary
 - G. Advice as to whether collection activity other than levy, such as filing a notice of lien would suffice
 - H. Conclusion as to whether even the passive-type collection activity would tie up the taxpayer's assets to the extent that the taxpayer would be unable to finance a defense of the potential criminal prosecution.
3. District Counsel will be responsible for:
 - A. Reviewing the proposed civil actions
 - B. Notifying the district director of any proposed actions they feel might imperil the criminal case.
 - C. Referring the case to the National Office Chief Counsel for resolution in the event that district counsel and the district director do not reach an agreement.
4. SPf is responsible for:
 - A. Reviewing quarterly, the civil aspects of the cases under the jurisdiction of district counsel or the Department of Justice
 - B. Advising district counsel of any changes to the proposed civil action already noted in the transmittal of the criminal case.

[5.1] 5.8 (05-27-1999)

Requests to Suspend Collection Action on Non-Tax Criminal Cases

1. For purposes of this section, a non-tax criminal case is defined as one in which the investigation or prosecution is not being made on behalf of the Internal Revenue Service.
2. The district director can suspend collection activity at

- the request of the Justice Department on a taxpayer who is the subject of a non-tax criminal case.
3. However, the Service may not inform the Department of Justice whether there is any ongoing collection activity with respect to a particular taxpayer, or whether we have suspended, or will suspend such activity unless the Department of Justice submits a written request meeting the requirements of IRC 6103(l)(2).
 4. Telephone requests by a United States Attorney to suspend collection activity can be honored in emergency situations (such as when court action is imminent) provided a delay in collection activity would not be detrimental to the Service. In such cases:
 - A. Disclosure of information -- No information may be disclosed to the Department of Justice until the telephone request is followed up with a proper IRC 6103(l)(2) request.
 - B. Suspension action -- Review after 72 hours to determine if it should be continued. In all cases, the decision to suspend activity should come only from the district director.
 - C. Contact by U.S. Attorney -- Revenue officer will make no comment on the case in question and refer the request, through channels, to the district director.
-

Chapter 7 -- Government Agencies, Military Personnel and Department of Defense Employees

[5.1] 7.1 (05-27-1999)

Small Business Administration (SBA)

1. When a taxpayer with an SBA loan becomes tax delinquent, both the Service and the SBA have a need to protect the government's interest. The SBA and the Service entered into an agreement to assure that Service enforcement action will not unnecessarily reduce SBA's potential recovery. The agreement is limited to FICA and withholding tax liabilities and covers all types of SBA loans:
 - o Direct
 - o Participation
 - o Guaranteed

[5.1] 7.1.3 (05-27-1999)

Collection Procedures

1. When it is determined that a business taxpayer has an outstanding SBA loan and enforcement action is planned, contact the district's SBA coordinator who will then inform SBA of the pending enforcement.
NOTE:
This also includes planned filing of a Federal Tax Lien
2. Upon receiving notice of pending enforcement action SBA will, within a mutually agreed time frame, evaluate the

taxpayer's potential to fully pay the tax deficiency. If SBA believes the business is financially viable, it will consider all methods to make cash flow available to satisfy the delinquent taxes. This includes: deferment or reduction of loan payments, payments by participating banks, subordination, release of assignment or collateral, supplemental loans, etc.

3. Normally, after notifying the SBA, the Service will suspend enforcement, including the filing of a Federal Tax Lien, during the agreed upon evaluation period. If, at any time during the evaluation period, SBA determines that the taxpayer is not financially viable, they should inform us immediately.
4. In instances where, in the Service's judgement, the government's interest would be jeopardized by delay, the district coordinator will notify the SBA of the imminent enforcement action planned.
5. Document all actions and decisions pertaining to our coordination with the SBA and make them part of the case file.

[5.1] 7.3.2 (05-27-1999)

Protective Information

1. To carry out its protective duties the U.S. Secret Service has requested that the Service provide information:
 - A. pertaining to a threat, plan or attempt by an individual, a group, or an organization to physically harm or embarrass the persons protected by the U.S. Secret Service, or any other high U.S. Government official at home or abroad.
 - B. pertaining to individuals, groups or organizations who have plotted, attempted or carried out assassinations of senior officials of domestic or foreign Governments.
 - C. concerning the use of bodily harm or assassination as a political weapon. This should include training and techniques used to carry out the act.
 - D. on persons who insist upon personally contacting high Government officials for the purpose of redress of imaginary grievances, etc.
 - E. on any person who makes oral or written statements about high Government officials in the following categories: (1) Threatening statements, (2) Irrational statements and (3) Abusive statements
 - F. on professional gate crashers.
 - G. pertaining to "Terrorist" bombings.
 - H. pertaining to the ownership or concealment by individuals or groups of caches of firearms, explosives, or other implements of war, regarding anti-American or anti-U.S. Government demonstrations in the United States or overseas.
 - I. regarding anti-American or anti-U.S. Government demonstrations in the United States or overseas.
 - J. regarding civil disturbances.

[5.1] 7.5 (05-27-1999)

Information Compelled From A Witness Under Grant of Immunity

1. Occasionally, revenue officers may need information that a witness was compelled to supply under a grant of immunity from prosecution. This immunity can be granted by:
 - o Congressional Committees
 - o certain Federal and State agencies
 - o courts
 - o grand juries
2. Information that is directly or indirectly derived from evidence or testimony which an immunized witness was compelled to supply cannot be used against that witness in a criminal tax case now or in the future.

CAUTION:

To ensure that any criminal tax case against an immunized witness is not jeopardized inadvertently, revenue officers must exercise caution when they:

1. Obtain compelled information
2. Maintain compelled information in Collection case files

[5.1] 7.5.1 (05-27-1999)

Revenue Officer Procedures for Obtaining Compelled Information

1. Prepare a memorandum to the Chief, Criminal Investigation Division and forwarded it through the Chief, Collection Division. The memorandum will state:
 - A. What information is needed
 - B. Who has the information, and
 - C. Why it is needed for a case
2. With the advice of District Counsel, the Chief, Criminal Investigation Division will respond to the request by:
 - A. Approving
 - B. Disapproving, or
 - C. Placing limitations on the request
3. Compelled testimony and other information may not be used in any other civil action during the pendency of the criminal aspects of the investigation without express written consent of the Assistant Commissioner (Criminal Investigation).
4. If a prosecution referral to the Department of Justice is in effect, the concurrence must be obtained prior to the non-injunctive civil use of the testimony or information.

[5.1] 7.5.2 (05-27-1999)

Revenue Officer Procedures for Maintaining Compelled Information

1. Maintain any Collection case file containing compelled information so that:
 1. The compelled information and any additional information derived from it is identifiable as such, and
 2. All information developed through unrelated, independent investigation is also identifiable and

segregated from the compelled information.

NOTE:

In ICS districts this compelled information should not be entered into an ICS case history but maintained on paper.

2. Do not give Criminal Investigation personnel access to compelled information without a request in writing from the Chief, Criminal Investigation Division to the Chief, Collection Division.
3. Maintain a chronological record of all Service personnel who had access to compelled information in any open case file.
4. Revenue officers who have access to compelled information should not be subsequently assigned to any joint Criminal Investigation--Collection investigation on the witness who furnished it.

[5.1] 7.6 (05-27-1999)

Federal, State and Local Government Agencies

1. Federal, state and local governments are required to comply with all of the tax laws. Your objective is to bring delinquent government taxpayers into full compliance.
2. Use the following Master File (MF) Employment Codes to identify government taxpayers:
 - A. Code F: federal employer
 - B. Code G: state or local government subject to withholding only (Form 941E filing requirements)
 - C. Code T: state or local government subject to both withholding and FICA (Form 941 filing requirements)

NOTE:
Effective July 1, 1991, Social Security coverage was extended to state and local governmental employers who were formerly exempt. The "G" code is no longer be applicable for many state and local governments.
3. The MF Employment Codes appear in the:
 - A. Master File History Section of a TDA
 - B. TDI Information section of a TDI
 - C. IDRS command codes ENMOD, TDINQ, TXMOD and ACTRA.
4. Group managers and revenue officers will identify government accounts under their control and manage them to ensure prompt resolution.
 - A. Remove inappropriately coded accounts.
 - B. Add the correct code to those cases which are not coded.
 - C. Prepare Form 4844, Request for Terminal Action and obtain managerial approval to correct the Employment Code.
5. The Final Notice has been suppressed on accounts of all government taxpayers coded with Employment codes F, G, and T.

[5.1] 7.6.1 (05-27-1999)

State and Local Government Agencies

1. Since 1975 penalties and interest have been assessed and collected from state and local governments.
2. Work with the state or local government agency to obtain voluntary compliance.
3. Consider reasonable cause for penalties if the agency has taken action that will assure compliance in the near future, generally within the next six months.
4. Notify an official in the state or local government, who has the authority to resolve the problem, about the tax delinquencies.
5. Prior to taking enforcement action, provide the responsible official with a Final Notice. Also, notify the Chief, Collection Division that the state or local government agency will receive a Final Notice.
6. Do not make referrals to the National Office regarding the assertion or collection of penalties and interest against state and local government agencies.

EXCEPTION:

If the issue involved is significant to tax administration a referral can be made.

[5.1] 7.6.2 (05-27-1999)

Federal Government Agencies

1. Federal agencies are not exempt from the employment tax filing, paying and reporting requirements. Congress did not provide any exceptions for federal agencies.
2. Federal agencies follow the same employment tax filing and reporting requirements that are required by private industry. However, federal agencies are required to make:
 - A. Federal tax deposits only at a Federal Reserve Bank.
 - B. Federal tax deposits on the same day payroll is paid.
3. Federal agencies pay their financial obligations with appropriated funds: this includes employment taxes. The Comptroller General ruled (opinion B-161457) that penalties and interest cannot be paid from appropriated funds. Policy Statement P-2-4 provides for nonassertion of penalties and interest against agencies or instrumentalities of the United States.
4. Federal agencies should not receive a Final Notice. Do not serve a levy, file a lien, assess the trust fund recovery penalty, or take enforcement action. Although none of these actions are prohibited by law, it is not appropriate to use them in the case of Federal agencies.
5. Bring the federal agency into compliance by raising the matter to the person who has the authority to make decisions to resolve the delinquency.
6. Educational efforts may be necessary to assist the federal agencies to prevent delinquencies. Many of the delinquencies are due to lack of understanding of requirements. Refer federal agencies to the Treasury Financial Manual (TFM 3-400) for guidance.
7. It is important to the image of the U.S. for federal agencies to set a good example because private employers are expected to meet all requirements of filing and paying

their employment taxes timely.

[5.1] 7.6.3 (05-27-1999)

Contacting Federal Agencies

1. Make personal contact with the federal agency within 30 calendar days of receipt. Personal contact includes either a telephone call or a field visit. See IRM 5.1, chapter 1.

NOTE:

Do not use appointment letters in place of telephone calls or field visits.

2. If necessary, request a copy of the tax return to secure the name (from the signature on the tax return) of the first person to contact.
3. During the initial contact with the federal agency, secure and verify as much information as possible.

Example:

- + Employer Identification Numbers (EIN) assigned to each entity of the federal agency.
- + Photocopies of original and amended returns.
- + Record of federal tax deposits (include dates and amounts).
- + Filing requirements.
- + Addresses of each entity of the federal agency (include the name of section, department, building, room number and contact person).
- + Status of filing Forms W-2 (with Social Security Administration) and Forms 1099 (with Internal Revenue Service).

4. Emphasize to the federal agency the importance of all records matching to avoid a Combined Annual Wage Reporting (CAWR) adjustment. Usually, complete transcripts will be needed to reconcile the application of payments. If the problem involves a missing deposit, ask the taxpayer to obtain a copy of the Treasury check to trace through IRS channels.
5. If a processing problem exists within the IRS, notify an IRS official who can cross functional lines to resolve the account expeditiously.
6. Raise the level of contacts if the delinquency cannot be resolved.
 1. Notify the Collection Division Chief. The revenue officer will prepare a memorandum explaining actions taken to resolve the delinquency. Include dates of contact and the names of persons contacted.
 2. The Collection Division Chief will contact their counterpart at the federal agency in an attempt to resolve the delinquency.
 3. Notify the District Director if the Collection Division Chief has been unsuccessful in resolving the delinquency. The revenue officer will prepare a memorandum explaining actions taken to resolve the delinquency, including actions taken by the Collection Division Chief. Include dates of contact and the names of persons contacted.
 4. The District Director will contact the federal agency

- counterpart in an attempt to resolve the delinquency.
7. Notify the Assistant Commissioner (Collection) if the Collection Division Chief and District Director have not been able to resolve the delinquency. The revenue officer will prepare a memorandum that will include the following:
 - A. Details of all actions taken on the case.
 - B. Explanation of why the case could not be resolved.
 - C. Names of all the persons contacted as well as the names of the responsible officials and contact officials at agency headquarters.
 - D. Actions you want the National Office to take.

[5.1] 7.7 (05-27-1999)

Account on Taxpayers Who Served in a Combat Zone

1. Individuals who served in an officially designated combat zonal will have payment and collection of any federal tax liability suspended during the period of the individual's service in the combat zone, plus any period of continuous hospitalization outside the United States as a result of injury received while serving in the combat zone, plus the next 180 days thereafter. See IRC 7508(d) for exceptions.
2. Those included within the scope of IRC 7508 are support personnel such as Red Cross personnel, industrial technicians, civilian employees of the Federal Government in specialist categories, scientists, and accredited correspondents.
3. Members of the U.S. Armed Forces performing services for the peacekeeping efforts in a "qualified hazardous duty area" are treated for tax purposes in the same manner as if the area were a "combat zone" (as determined under section 112 of the Internal Revenue Code). The term "qualified hazardous duty area" means Bosnia and Herzegovina, Croatia, or Macedonia, if, as of March 20, 1996, any member of the U.S. Armed Forces is entitled to special pay under section 310 of Title 37, United States Code (relating to special pay; duty subject to hostile fire or imminent danger), for services performed in any of these countries, but only during period the entitlement is in effect. See Notice 96-34, 1996-1 C.B. 379, providing guidance on the tax relief provided under the Act of March 20, 1996, Pub. L. No. 104-117, 110 Stat. 827 (1996).
4. IRC 692 provides that any individual who dies while in active service as a member of the Armed Forces of the United States (if such death occurred while serving in a combat zone or as a result of wounds, disease or injury incurred while serving) is not liable for any income tax for the taxable year in which the date of death falls or with respect to any prior taxable year ending on or after the first day of the period in a combat zone as well as any income tax which is unpaid for any prior years at the date of death (including interest, additions to the tax and additional amounts) shall be abated. Military personnel reported as Missing-In-Action and later determined to have died at an earlier date, Public Law 93-597 provides for forgiveness of income taxes through the taxable year in which the missing status is changed

rather than just through the year of actual death. However, such taxes will not be forgiven for any year beginning more than two years after termination of combatant activities (in the case of Viet Nam, no later than January 2, 1978).

5. Suspend Collection action when it is determined that the taxpayer is entitled to an extension of time under IRC 7508. Information documenting when service in the combat zone began, is sufficient to suspend collection activity. If a joint assessment is involved, suspend collection activity from the spouse during the period provided by IRC 7508. The case file should be annotated accordingly.

[5.1] 7.7.1 (05-27-1999)

Military Personnel and Civilian Employees of Department of Defense Residing Overseas

1. The Department of Defense (DOD) has issued instructions to their payroll officers to transfer a Notice of Levy to the proper payroll officer when military personnel change their duty station anywhere in the world. As a result, it is not necessary to have the TDA follow the taxpayer who is transferred to a new duty station.
2. In an agreement with DOD on processing accounts of military personnel having APO or FPO addresses, the Service also agreed to a similar understanding on processing accounts of DOD civilian employees residing overseas. Both agreements provide for the acceptance of service of levies by mail in the United States and forwarding to the payroll officer overseas. This includes all military personnel and DOD civilian employees residing overseas with the exception of those in Hawaii, Alaska, and Puerto Rico where the local payroll offices continue to accept service of the levy.
3. Precautionary measures should be taken by district offices to ensure that TDAs are processed with prescribed instructions to prevent any repercussions from DOD.
4. All TDAs on military personnel stationed outside the district in which the TDA is located and those TDAs on civilian employees of DOD residing overseas require a waiting period of 40 days after the date of the Final Notice. The Tax Equity and Fiscal Responsibility Act of 1982 requires that the Final Notice or its equivalent bearing foreign addresses be sent via registered mail or certified mail (if the address is an APO [Army Post Office] box or FPO [Fleet Post Office] box). TDAs on military personnel stationed within the district where the TDA is located also require a waiting period of 40 days.

[5.1] 7.7.2 (05-27-1999)

Processing Notice Responses

1. Direct all responses from the taxpayer as a result of notices sent out, to the Service Center.
2. Military accounts where the taxpayer makes a specific inquiry about a military deferment in response to a notice

request for payment of individual income tax, the Service Center will accelerate the account to TDA status, place the correspondence in the suspense file for attachment to the TDA when assigned to Cff and process in accordance with procedures in Section 7.7.4 of this chapter.

[5.1] 7.7.3 (05-27-1999)

Securing Addresses of Military Personnel

1. Form 2223, Request for Address of Military Personnel, is used to obtain a current or prior address of a taxpayer who is in or was recently separated or discharged from the Armed Forces. Military personnel will only respond to a completed Form 2223 with an accurate social security number. Send inquires for all Military Service Branches to the pre-printed address provided on the Form 2223.
2. Care must be taken to ensure that the Service's return address appears on each Form 2223. The Form 2223 must be completed accurately, failure to do so will result in a non-response.
3. Since the Military Branches receive numerous requests for addresses, allow 90 days before considering a follow-up request. If after 90 days a follow-up is necessary, a second Form 2223 should be mailed to the proper Military Service Branch. The second Form 2223 should not be identified as a second request, and no reference should be made to the original form.
4. To find the address of a retired or active member of the Military, inquires should be sent to the specific Military Service including the United States Coast Guard. Addresses may be found in Document 6408, Notice of Levy and Address Directory.

[5.1] 7.7.4 (05-27-1999)

Military Deferments/Soldiers' and Sailors' Civil Relief Act

1. Under the Soldiers' and Sailors' Civil Relief Act (referred to below as Section 573, Title 50), the collection of any income tax due from any person in the military service, whether falling due before or during military service, may be deferred if ability to pay the tax is materially impaired because of that person's military service. Collection may be deferred during the taxpayers' military service and up to six months afterward.
2. "Person in the military service," means any member of the United States Army, Air Force, Navy, Marine Corps, Coast Guard, and any officer of the Public Health Service detailed by proper authority for duty with the Army or Navy.
3. "Period of military service," means a person's initial period of active military service, which will be:
 - A. The period of active duty under for which the taxpayer is inducted into the military service under any selective service act;
 - B. The period of active duty under the first enlistment

- of the taxpayer in the military service;
 - C. The period of service which precedes any reenlistment following recall of the taxpayer to active duty from a reserve or National Guard unit;
 - D. The first period of reenlistment of taxpayer who has been out of the military service for one year or more; or
 - E. In the case of an officer, the first two years of any tour of active duty that is preceded by a period of inactive duty or nonmilitary status for one year or more.
4. A deferment of collection of income tax under Section 573, Title 50, will be granted if:
- A. the taxpayer submits a written request for deferment under Section 573, Title 50,
 - B. The taxpayer establishes that he or she is serving an initial period of military service, and
 - C. the taxpayer submits, satisfactory proof that ability to pay the tax has been materially impaired because of taxpayer's military service.

[5.1] 8.7.1 (05-27-1999)

Recovery of Unassessable Erroneous Refunds

1. In some instances refunds are issued erroneously and cannot later be assessed as tax. If the taxpayer does not voluntarily repay the amount due, the Service must take legal action to collect. Administrative lien or levy action cannot be used to collect these debts.
NOTE:
There is a two-year statute of limitations for instituting a suit to recover an unassessable erroneous refund unless the refund was induced by fraud or misrepresentation of a material fact, in which case the period is five years. The two years is computed from the date refund was issued. Interest accrues on the amount of the unassessable erroneous refund from the date the refund was issued until the date of repayment.
2. When the Form 2209 is received in the district office, Collection management will assign it for prompt action. Contact the taxpayer and request payment of the amount due, including interest.
3. Secure full payment if possible. If the taxpayer pays in full, return the remittance and related case to the service center. Convert cash to a bank draft or money order. If an 809 receipt is issued, give Part 2 to the taxpayer, staple Part 1 to the reverse of Part 3 and forward to the teller unit where they will be retained.
4. If the taxpayer cannot make immediate full payment, Collection personnel may accept an installment agreement from the taxpayer.

CAUTION:

Do NOT use Form 433-D, Installment Agreement. Request that the taxpayer submit a signed agreement that indicates the terms of the payment agreement.

Secure Form 433-A, Collection Information Statement for Individuals and Form 433-B, Collection Information Statement for Businesses, if the taxpayer voluntarily discloses the information. Do NOT use a summons to secure records of any type.

5. Grant the amount of time for an installment agreement based on circumstances of the individual case. The installment agreement should provide for full payment at least three months before the two-year statute for instituting suit expires.

EXCEPTION:

The taxpayer may waive the two year period of limitations established by IRC 6532(b) on the institution of suits to recover erroneous refunds. If the taxpayer executes a waiver of the limitations period as part of his or her agreement, such installment agreements are acceptable.

6. Use the following suggested waiver language when a waiver is required. Type it in the blank space provided at the bottom of Form 433-A or Form 433-B:

WAIVER

I (we) hereby voluntarily waive the two year period of limitations established by IRC 6532(b) on the institution of suits to recover the erroneous refund(s) I (we) received on...(date)...., as a condition of being considered for an installment agreement.

Taxpayer's Signature/date Taxpayer's Signature/date

District Director's Name/by Delegated representative/date
(signature and title)

* Forward installment payments when received to the service center with Form 2209-A. In the Remarks section of Form 2209-A record:

- * the taxpayer's identification number
- * the tax period
- * the tax class
- * the statement "Installment Payment on Erroneous Refund"

* Close the Form 2209 when the full amount due is received. The agreement cannot be enforced by levy action. If the taxpayer defaults, take action described in (9) below.

* Close the Form 2209 when the full amount due is received. If the taxpayer defaults, take action described in (9) below.

* Prepare a report to the Chief, Special Procedures function recommending whether or not a suit to recover the erroneous refund should be instituted when the taxpayer:

- * refuses to pay on demand
- * refuses to make an installment agreement, or
- * defaults on an installment agreement

* Consider the usual requirements for recommending a suit. When a suit is recommended, include in the report the following (if available)

- A. Name and address of the taxpayer
- B. Type of taxpayer (individual, partnership, corporation, etc.)
- C. Class of tax
- D. Amount of erroneous refund by tax period, including as a separate item the amount of accrued interest due on the erroneous refund
- E. Schedule number and date, and date refund was made
- F. Reasons refund arose and premise on which recovery was based
- G. Statement indicating that the taxpayer refused or neglected to make payment upon request, including any reasons known for the taxpayer's action

EXCEPTION:

If suit is not recommended, the report may be limited to a, b, c, d, and g above.

* Close the Form 2209 by noting Parts 1 and 2 "Suit Recommended" or "Suit Not Recommended" as applicable.

- A. Forward Part 2 on the daily report
- B. Forward Part 1 with the memorandum and all other attachments, including the copy of Form 4728, notice to taxpayer of incorrect refund, to Special Procedures function.

* See Law Enforcement Manual V for information on potential statute cases.

* The Chief, Special Procedures function will make the final determination.

If	Then
Suit is to be recommended	Part 1 of the Form 2209 will be sent to the service center
Suit is not to be recommended	Part 1 of the 2209 will be noted "Suit will not be initiated" and will be sent, with the related case file, to the service center.

[5.1] 8.7.2 (05-27-1999)

Failure of Employer To Furnish Withholding Statement

1. Whenever a taxpayer corresponds with a service center and indicates inability to secure a correct Form W-2 from his/her employer, the service center Correspondence Section attempts to resolve the discrepancy. If this does not resolve the situation a Form 2209 is prepared and issued to the Collection Field function.
2. If the employer has no records or the records are inadequate to accurately determine the employee earnings, secure an estimated Form W-2 from the employer.
3. If the employer cannot be located, note this fact with a statement in the "Remarks" section of the Form 2209.
4. Willful failure to furnish an employee with the required statement on Form W-2 may make an employer liable for a civil penalty imposed by IRC 6674 and/or a criminal

penalty provided by IRC 7204. Consider the assertion of these penalties whenever an employer refuses to submit the required Form W-2.

5. Failure to furnish or the furnishing of a false or fraudulent Form W-2 suggests the possibility that the employer may have omitted reporting, on Form 941, the tax withheld. Therefore, include in a field investigation of this type Courtesy Investigation an examination of the employer's records to determine if all tax withheld has been accounted for and reported on the employer's returns. If indications of fraud are discovered, apply the procedures in IRM 104.2, Fraud Handbook.

[5.1] 8.7.3 (05-27-1999)

Potential Proof of Claim Cases

1. Special Procedures function may use Form 2209 to request Collection Field function examination of records filed with the court to determine whether an insolvent taxpayer's schedules filed with the bankruptcy court disclose sufficient assets in excess of liabilities to warrant filing a Proof of Claim in the proceeding. Special Procedures function may use Form 2209 to request Collection Field function to:
 - o examine records filed with the court to determine whether an insolvent taxpayer's schedules filed with the bankruptcy court disclose sufficient assets in excess of liabilities to warrant filing a Proof of Claim in the proceeding.
 - o make an equity determination when there is a valid lien in order to file an accurate secured Proof of Claim.
 - o determine if a debtor has exempt or abandoned assets from which there may be some collectibility when the Service has filed a Notice of Federal Tax Lien.

[5.1] 8.7.4 (05-27-1999)

Social Security Administration Preferential Investigations

1. When certain conditions are met, the Social Security Administration (SSA) may ask the Internal Revenue Service to give preferential treatment to earnings discrepancy cases. These cases are originated on Form SSA 1273, Request for Preferential Investigation.
2. The SSA will forward Form SSA 1273 to the appropriate service center. If there is no record of the return involved, the service center will:
 1. Prepare Form 2209.
 2. Attach Form SSA 1273 to Form 2209 and forward both to the Collection Field function.
3. When Collection Field function receives these cases, it will:
 1. Accord them priority over other SSA investigations.
 2. Close them within 40 days of receipt, if possible.
 3. Complete the reverse side of Form SSA 1273 before closing the investigation and attach all parts to

Form 2209.

[5.1] 8.7.5 (05-27-1999)

Exemption From Self-Employment Taxes

1. Members of certain religious groups that are opposed to insurance have been exempted from paying social security self-employment taxes. In order to establish this exemption, a taxpayer must file with the Internal Revenue Service Form 4029, Application for Exemption from Tax on Self-Employment Income and Waiver of Benefits.
2. Occasionally a Form 4029 will be received from an individual whose name does not appear on the religious organization's membership list. In these cases the service center will attempt to secure verification of the applicant's membership. However, if the service center is unable to secure the data required, the case will be forwarded to Collection Field function on Form 2209.

NOTE:

These Forms 2209 will have the following notation in the "Remarks" block: "A Form 4029, Application for Exemption from Tax on Self-Employment Income and Waiver of Benefits, has been filed by the taxpayer named above. Upon contact, request the taxpayer to furnish the appropriate statement relative to his/her membership in the religious group indicated on the application."

3. Collection Field personnel should contact the individual requesting exemption and advise him/her that the application cannot be processed because his/her name is not on the list supplied by the religious organization. The taxpayer should be requested to secure a statement signed by an authorized individual of the religious sect. This statement should include:
 - o Name, address and district of the religious group
 - o Title of the authorized individual
 - o Name of the applicant
 - o Statement that the applicant is a member of the religious group
4. Attach this statement to Part 1 of Form 2209 before submitting the closed case on Form 795.

[5.1] 9.1 (02-26-1999)

Overview of Taxpayer Collection Appeal Rights

1. This section discusses the rights taxpayers have to appeal collection actions, proposed or taken, and the related appeal procedures.
2. The specific appeal rights being addressed include the Due Process appeal rights
 - A. IRC 6320 gives the taxpayer the right to appeal the filing of a Notice of Federal Tax Lien.
 - B. IRC 6330 gives the taxpayer the right to appeal before levy action is taken.

and appeal rights under the Collection Appeals Program

(CAP).

- A. IRC 6159 gives the taxpayer the right to appeal the Service's rejection or termination of an installment agreement.
 - B. IRC 7123 gives the taxpayer appeal rights that the Service provides for through the existing Collection Appeals Program.
3. Taxpayers have additional appeal rights, including those related to assessment of the trust fund recovery penalty, offers in compromise, abatement of penalty assessments due to reasonable cause, and jeopardy levies. These appeal rights and procedures are addressed in the corresponding IRM chapters.

[5.1] 9.2 (02-26-1999)

Informing Taxpayers of Their Appeal Rights

1. Taxpayers need to be kept informed of their rights to appeal collection actions. The following publications and forms explaining appeal rights and provisions should be readily available in Collection offices to provide to taxpayers:
 - A. Publication (Pub.) 594, The IRS Collection Process, addresses general appeal provisions.
 - B. Pub. 1660, Collection Appeal Rights, provides detailed information regarding the collection appeal rights and procedures under Due Process and the Collection Appeals Program.
 - C. Form 9423, Collection Appeal Request
 - D. Form 12153, Request for a Collection Due Process Hearing
2. Revenue officers need to be able to explain the appeal provisions to taxpayers and answer questions taxpayers may have regarding their right to appeal.
3. Statutory provisions under IRC § 6320 and IRC § 6330 require the Service to provide taxpayers with written notification of their appeal rights. Refer to the Due Process section, 9.3.
4. Collection personnel are required to advise taxpayers of their right to appeal under the Collection Appeals Program (CAP) when an installment agreement is rejected or about to be terminated. Refer to the CAP section, 9.4.
5. Collection personnel need to provide taxpayers with Pub. 1660 prior to seizure action.

[5.1] 9.3 (02-26-1999)

Due Process Appeals

1. The Restructuring and Reform Act (RRA) of 1998 established the Due Process appeal rights under IRC 6320 and IRC 6330. These provisions apply to levy and lien actions taken after January 18, 1999.

[5.1] 9.3.1 (02-26-1999)

Notice of Due Process Appeals Rights

1. The Due Process appeal provisions give taxpayers an

opportunity for an independent review to ensure that the levy or lien action by Collection is warranted. In the Collection Field function, attempted contact with the taxpayer or alternative methods for resolving the case, such as installment agreements and offer in compromise, should be explored before levy or lien action is considered.

2. IRC 6320 gives taxpayers the right to request a hearing during the 30 calendar day period that begins on the day after the five business day period after the filing of a Notice of Federal Tax Lien.
 - A. Letter 3172(DO), Notice of Federal Tax Lien Filing and Your Right to a Hearing under IRC 6320, will be given in person, left at the dwelling or usual place of business, or sent by certified mail to the last known address not more than 5 business days after the day of the filing of the Notice of Federal Tax Lien.
 - B. This notice is required only once for the taxable period and unpaid tax which is the subject of the lien filing. A second notice may be required if an additional assessment of tax is made after the original Letter 3172 was issued. Refer to the Federal Tax Lien Handbook, IRM 5.12.
 - C. For a joint income tax liability, each spouse will individually be sent a Letter 3172 explaining the right to a hearing at his or her last known address. Two separately addressed notices are sent even if both spouses are at the same address. Refer to the Federal Tax Lien Handbook, IRM 5.12, for information on the issuance of this notice.
3. IRC 6330 gives taxpayers the right to request a hearing during the 30-day period that begins on the date of the Notice of Intent to Levy and Your Notice of a Right to a Hearing.
 - A. This Notice of Intent to Levy and Your Notice of a Right to a Hearing will be given in person, left at the dwelling or usual place of business, or sent by certified mail, return receipt requested, to the taxpayer's last known address not less than 30 days before the day of the first levy.
 - B. Information regarding how the notice was sent, delivered, or left at the dwelling or business must be documented in the case history. In addition, request input of appropriate TC 971 action codes. Refer to the Notice of Levy Handbook, IRM 5.11.
 - C. This notice is required only once for the taxable period and unpaid tax which is the subject of the pre-levy notice. A second notice may be required if an additional assessment of tax is made after the original notice was issued. Refer to the Notice of Levy Handbook, IRM 5.11.
 - D. For a joint income tax liability, when an L1058, Notice of Intent to Levy and Your Notice of a Right to a Hearing, is issued in the field, each spouse will individually be given or sent, to his and her last known address, the letter explaining the right to a hearing. Two separately addressed notices are sent even if both spouses are at the same address.

Refer to the Notice of Levy Handbook, IRM 5.11, for information on the issuance of the pre-levy notice.

4. There are two exceptions to the pre-levy notice requirements of IRC 6330. They are:
 - A. when the collection of tax is in jeopardy under section 6331 (a), or
 - B. a levy is served on a state to collect a Federal tax liability from a state tax refund.

In both of the above situations, the taxpayer will be given the opportunity for a Collection Due Process (CDP) hearing within a reasonable period of time after the levy. Refer to 9.3.11.

[5.1] 9.3.2 (02-26-1999)

Request for Due Process Hearing Rights

1. If contact is made with the taxpayer after the issuance of the CDP notice, attempt to resolve the account or issue with the taxpayer. In some situations it may be useful to have the group manager intercede in discussions with the taxpayer in an effort to resolve the case. However, taxpayers entitled to request an appeal under the due process provisions need to be advised of the requirements and time frames for filing an appeal. It is important to inform taxpayers that discussions with Collection do not suspend the running of (or otherwise extend) the 30-day period during which taxpayers may request a Collection Due Process hearing.
2. If the taxpayer wants to file a request for a hearing,
 - A. it must be in writing;
 - B. it must be within 30 days of the date of the Notice of Intent to Levy and Notice of Your Right to a Hearing or within the 30 days beginning with the day after the five business day period of the filing of the Notice of Federal Tax Lien; and
 - C. it must be signed by the taxpayer(s) or the taxpayer(s) representative.
3. Taxpayers are requested to use Form 12153, Request for Collection Due Process Hearing, to request the appeal. This form is included with the Notice of Intent to Levy and Notice of Your Right to a Hearing and the Notice of Federal Tax Lien Filing and Your Right to a Hearing under IRC 6320. If this form is not used, a written request for a Collection Due Process hearing signed by the taxpayer or authorized taxpayer representative can be used. Advise taxpayers to include the following information.
 - A. Taxpayer name(s), address, and daytime telephone number. If the tax liability is owed jointly by a husband and wife and they both wish to request the hearing, both names must be listed and both taxpayers must sign the request.
 - B. Type of tax(es), taxable period(s), and the taxpayer identification number(s). Taxpayers are asked to include a copy of the notice with the requests. If a copy of the notice is included, the request would be processed to include all taxes and periods listed on

the notice. If a copy of the notice is not included, unless the taxpayer explicitly indicates otherwise, a timely request for a CDP hearing is inferred to include all periods entitled to a CDP hearing that were listed on the CDP hearing notice. (Refer to 9.3.6 for information on processing requests.)

- C. A statement that this is a request for a hearing concerning the filing of the Notice of Federal Tax Lien or proposed levy action.
- 4. The taxpayer is asked to file the request for the hearing with the employee or function initiating the action. Cases assigned to the Collection Field function will have the assigned revenue officer's name and address listed on the Collection Due Process (CDP) hearing notice.
- 5. The request for a CDP hearing should be stamped with the received date. A timely filed request for a hearing suspends the statutory period of limitations on collection, criminal prosecutions, and other suits for the period that is being appealed. Timely mailed constitutes timely filed if the taxpayer's request for a CDP hearing is correctly addressed to the IRS office listed in the CDP hearing notice or if that address is not known, to the District Director serving the district of the taxpayer's residence or principal place of business.
- 6. If the request for the hearing is received after the IRC 6320 or 6330 notice period, the taxpayer is entitled to receive an "equivalent" hearing. Refer to the section 9.3.5, "Equivalent" Hearing.

[5.1] 9.3.3 (02-26-1999)

Levy Action during the Due Process Appeal Period

- 1. If the taxpayer files a timely request for a Collection Due Process (CDP) hearing during the IRC 6320 or IRC 6330 notice period, levy actions must be suspended during the appeal period and while any further appeals, to Tax Court or district court, as Process applicable, are pending.
- 2. However, during an appeal to Tax Court or federal district court where the underlying tax is not at issue in the appeal, levy action may continue if the court determines that the Service has shown good cause not to suspend the levy. If it is determined that continued levy action is warranted during an appeal to Tax Court, prepare a memo requesting District Counsel to petition the court to allow the Service to take levy action.
- 3. Levy action is suspended only for the tax periods that are the subject of the Collection Due Process (CDP) hearing. Refer to 9.3.6 for procedures on determining tax periods that are the subject of the CDP hearing. Levy action can continue on tax periods not subject to the CDP hearing, provided all pre-levy notifications have been met. However, as a general rule, in such situations, levy action is suspended during the appeal period even when not required by statute. When it is determined that lien or levy action on periods not subject to the CDP hearing is appropriate, i.e., collection is at risk, the lien or levy action must be approved by the group manager.

4. In joint liability situations, where only one spouse has requested a CDP hearing, collection action can continue with respect to the spouse who has not requested an appeal. This will most often occur in situations where the spouses are separated or divorced.
5. In a situation where a levy has been issued, and then the taxpayer files an appeal, either a timely CDP Appeal under IRC 6320 or an equivalent hearing under IRC 6320 or 6330, determine if the levy should be released. If the levy is not released, advise the levy source to delay sending the payment and refer the matter to Appeals through the Collection Appeals Program for an expedited review of the levy issue.

EXAMPLE:

The taxpayer does not respond to the pre-levy notice. A continuous wage levy is issued. The revenue officer then files a Notice of Federal Tax Lien. The taxpayer receives the IRC 6320 CDP hearing notice and files a timely request for a CDP hearing. A decision needs to be made whether or not to release the levy.

6. If it is determined that the Notice of Intent to Levy and Notice of Your Right to a Hearing was not properly mailed to the taxpayer's last known address, release the levy and resend the notice if levy action is required. Proper notification under IRC 6330 is required prior to levy action.

[5.1] 9.3.4 (02-26-1999)

Suspension of Collection Statute of Limitations

1. The statute of limitations is suspended from the date the Service receives a timely filed request for a due process hearing to the date the determination from Appeals becomes final.
 - A. The date the determination from Appeals becomes final is the date the 30-day period within which the taxpayer could appeal to the Tax Court or district court expires, if the taxpayer does not exercise his/her right to seek judicial review.
 - B. If the taxpayer timely commences the appeal process to the Tax Court or to a federal district court, the statute of limitations is suspended and the determination is not final until the completion of any judicial review.
 - C. If 90 days is not remaining on the statute of limitations when the determination becomes final, the statute of limitations is recomputed to allow for this 90 day period.

[5.1] 9.3.5 (02-26-1999)

"Equivalent" Hearing

1. If the request for the appeal is received after the IRC 6320 or IRC 6330 notice period, the taxpayer is still afforded the opportunity for an independent review conducted by the Office of Appeals. This appeal is

conducted in a similar way to the Collection Due Process appeal and is referred to as an "equivalent" hearing with an important difference.

2. In an "equivalent" hearing, the decision by Appeals is final. The taxpayer cannot appeal the decision to Tax Court or federal district court, except as it relates to certain spousal defenses under IRC 6015 (b) or (c).
3. Levy action during an "equivalent" hearing is not required to be suspended. However, as a general rule, even when not required by statute, levy action is suspended during the appeal period. When it is determined that lien or levy action during the appeal is appropriate, i.e., collection is at risk, the lien or levy action must be approved by the group manager. The lien or levy actions can be appealed under CAP while the equivalent hearing is in process.
4. In a situation where a levy is pending when the taxpayer files a request for an equivalent hearing, determine with the help of the group manager if the levy should be released. If the levy is not released, advise the levy source to delay sending the payment and refer the matter to Appeals through the Collection Appeals Program for an expedited review of the levy issue.
5. If it is determined that the Notice of Intent to Levy and Right to a Hearing was not properly mailed to the taxpayer's last known address, release the levy and send the notice to the taxpayer's last known address if levy action is warranted. Proper notification under IRC 6330 is required prior to levy action.
6. The statute of limitations on collection is not suspended during the "equivalent" hearing.

[5.1] 9.3.6 (02-26-1999)

Processing Requests for Collection Due Process and "Equivalent" Hearing

1. Upon receipt of a written request for a Collection Due Process (CDP) or "equivalent" hearing, review the request for completeness. If necessary, contact the taxpayer to clarify information needed to process the request.
 - A. Unless the taxpayer explicitly indicates otherwise, a request for a CDP hearing is inferred to include all periods entitled to a CDP hearing that were listed on the CDP hearing notice.
 - B. If the taxpayer includes periods that are not subject to the CDP hearing, determine if the taxpayer is entitled to receive an "equivalent" hearing. If so, process the request as a request for an "equivalent" hearing.
 - C. If the taxpayer includes periods that previously received a CDP hearing (indicated by a TC 520 cc 70, see (3) below), process the request as a request for an appeal under the retained jurisdiction provisions. Refer to 9.3.10.
 - D. On joint liability requests, both spouses need to sign if both are making the request.
 - E. Any corrections the taxpayer wishes to make to a

timely filed CDP request must be made with Collection before the hearing or at the time of the hearing with Appeals. Appeals will notify Collection of any changes that they receive that effect the levy or collection suspensions.

- F. Taxpayers need to request any changes in writing or if the changes are made to the original request form, the changes need to be initialed by the taxpayer.
2. Determine if the collection statute needs to be suspended. The collection statute is suspended only when a taxpayer files a timely request for a CDP hearing. The taxpayer has one opportunity to request a CDP hearing for the taxable period and unpaid tax which is the subject of the lien filing or pre-levy notice.

EXAMPLE:

A taxpayer receives a 6330 notice for 941 taxes for period ended 12/31/98 while the account is in ACS. No request for a CDP hearing is filed. The account is transferred to the Collection Field function. A 941 tax liability for the subsequent quarter is received. The revenue officer issues a 6330 notice on 06/10/99 for the subsequent quarter and includes the 941 for the period ended 12/31/98. The taxpayer files a Request for a Collection Due Process Hearing on 06/30/99 and includes a copy of the notice sent by the revenue officer. The taxpayer would be entitled to receive the following:

- A. 941 for 12/31/98 -- an equivalent hearing, no suspension of the collection statute.
- B. 941 for 03/31/99 -- a CDP hearing, collection statute is suspended.
3. If the collection statute is to be suspended, prepare a request to input a TC 520 cc 70 for each module subject to the collection statute suspension. The TC 520 places the module in status 72. The TC 520 reflects the beginning date of the collection statute suspension. The Collection Statute Expiration Date (CSED) will be updated at the conclusion of the appeal, when the new CSED is known, by input of a TC 550. For hearings involving an IMF joint return it is necessary to request input of the appropriate IMF CSED TIN indicator. The applicable IMF CSED indicators are:
- o "P" -- indicates the CSED applies to the primary TIN
 - o "S" -- indicates the CSED applies to the secondary TIN
 - o "B" -- indicates the CSED applies to both TINs.
4. The Collection Field function will send the request for input of the TC 520 to SPf on a Form 3210, Document Transmittal, along with a copy of the Form 12153, Request for Collection Due Process Hearing. The copy of the Form 12153 will help SPf identify the reason for the request. Upon completion of the appeal, Appeals will request SPf to reverse the TC 520 and input the TC 550 along with the applicable IMF CSED indicator. Appeals will provide SPf with the TC 550 date and applicable IMF CSED indicator. (Refer to 9.3.9(6).)
5. In some situations (i.e., pyramiding in-business taxpayer), it may be appropriate for the revenue officer

to monitor the case while it is in Appeals. For accounts in status 72, open an other investigation (OI) for monitoring purposes.

6. In situations where the collection statute is not suspended, for example "equivalent" hearings, the case will stay in open collection status, status 26. Since, in most instances, collection action will be suspended pending the outcome of the appeal and because of the varying time frames for the appeal hearing, it may be appropriate for the group manager to have the case uniquely assigned on IDRS within the group for purposes of controlling and monitoring the case during the "equivalent" hearings. In other instances, it may be appropriate to keep the case assigned to the revenue officer.
7. Due to the requirements of the hearing, it will be necessary for Appeals to review a copy of the entire case file. Refer to 9.3.7, Appeal Process.
8. In most instances, as a result of efforts to resolve the account by alternative methods, such as installment agreements and offer in compromise, prior to lien or levy action, sufficient information should be available in the case file to assist Appeals in its determination.
9. In some instances, the request for an appeal may be the first contact with the taxpayer. The taxpayer may, for the first time, raise a concern about a misapplied payment or request an installment agreement. In these situations, it may be appropriate to contact the taxpayer. The purpose of the contact is to expedite resolution of the case. If the taxpayer is willing, see if the issue can be resolved. If so, take the necessary actions and document the case file. It is still necessary to forward the case to Appeals. Agreement with the taxpayer at this stage, will expedite the appeal process, not prevent it. If the issue cannot be quickly resolved, the case must go forward to Appeals. Do not make an ongoing effort to resolve the case, once the request for an appeal is received.
10. It is important to forward to Appeals a well-organized and fully documented case file of the collection contacts and actions taken. The case file will serve as the basis for Appeals determination on whether the requirements of the Internal Revenue Code (IRC) or administrative procedure have been met.
11. Include a summary statement of the case actions. The summary should address the reason for the lien or levy action, collection alternatives offered by collection or the taxpayer, and why these options were not viable. In addition, in some situations, especially those pertaining to seizure action or cases with extensive case history, it may be helpful to include a checklist of significant case actions and applicable dates. Refer to 9.5, Communication with Appeals.
12. Appeals will rely on Collection to secure all information and files pertaining to the taxpayer's appeal, such as original tax return/RAR, trust fund recovery penalty file, or any other information that Appeals needs to make its determination. Any additional information, not included in the original file going to Appeals, will be requested by

Appeals via Form 2209, Other Investigation or other locally acceptable form.

13. Send the entire case file through the group manager to Appeals using Form 3210, Document Transmittal. Document on the Form 3210 the periods being addressed in the hearing request and indicate whether a TC 520 was requested and the date of the TC 520, if applicable. The group manager should ensure that the TC 520 was appropriately requested.
14. The turnaround time of the case in Appeals will depend on the issues to be addressed. Appeals needs time to conduct the hearing and make its determination. For a timely filed appeal, the taxpayer will also have the opportunity to file an appeal to Tax Court or a federal district court, as applicable.

[5.1] 9.3.7 (02-26-1999)
Appeal Process

1. The hearing is held by the Office of Appeals. It is conducted by an officer or employee who has had no prior involvement with the respect to the unpaid tax. However, the taxpayer may waive this requirement.
2. To the extent practicable, a hearing under IRC 6320 shall be held in conjunction with a hearing under IRC 6330.
3. The appeals officer is required to obtain verification that the requirements of the Internal Revenue Code or administrative procedure have been met. Appeals will rely on the information in the case file or will seek clarification of items that appear to be incomplete within the case file.
4. During the appeal process, the taxpayer or his or her representative may raise at the hearing any relevant issue relating to the unpaid tax or the proposed levy, including:
 - o appropriate spousal defenses;
 - o challenges to the appropriateness of collection actions; and
 - o offers of collection alternatives, which may include the posting of a bond, the substitution of other assets, an installment agreement, or an offer-in-compromise.
5. The taxpayer may also raise issues related to a hardship determination.
6. The taxpayer may also raise challenges to the existence or amount of the underlying tax liability for any tax period if he or she did not receive any statutory notice of deficiency for such tax liability or did not otherwise have an opportunity to dispute such tax liability.
7. An issue may not be raised at the hearing if:
 - A. the issue was raised and considered at a previous hearing under section 6320 or in any other previous administrative or judicial proceeding; and
 - B. the person seeking to raise the issue participated meaningfully in such hearing or proceeding.

[5.1] 9.3.8 (02-26-1999)

Appeal Determination

1. The Appeals determination will take into consideration the following:
 - A. the verification that the requirements of the Internal Revenue Code or administrative procedure have been met;
 - B. the issues being raised; and,
 - C. whether any proposed collection action balances the need for the efficient collection of taxes with the legitimate concern of the person that any collection action be no more intrusive than necessary.
2. For a timely filed due process hearing, the taxpayer will receive a Notice of Determination letter that explains the taxpayer's right to petition the court of jurisdiction within 30 days of the date of the letter.
3. For an "equivalent" hearing, the taxpayer will receive a decision letter. In an "equivalent" hearing the decision by Appeals is final, except as it relates to certain spousal defenses under IRC 6015(b) or (c).
4. In both the appeal Notice of Determination letter and decision letter, Appeals will provide clear information regarding any agreement reached with the taxpayer, any relief given, and any necessary actions required by Collection. If the tax liability is upheld or the enforcement action is valid, the letter will so state even if the appeals officer decides to provide the taxpayer a different collection alternative. The letter will also set forth specific ramifications should the taxpayer not comply with the terms of the agreement.
5. Appeals will generally follow the Service guidelines for collection set forth in the Internal Revenue Manual (IRM). Appeals, however, also considers the impact of the hazards of litigation. In addition, Appeals is required to balance tax collection needs with the legitimate concerns of the taxpayer that any collection action be no more intrusive than necessary.

[5.1] 9.3.9 (02-26-1999)

After the Appeals Determination

1. After Appeals makes its determination in a Collection Due Process (CDP) hearing, the taxpayer may, within 30 days of the date of the letter, appeal the determination to the Tax Court or if the Tax Court does not have jurisdiction of the underlying tax liability, to a district court of the United States.
2. If a court determines that the appeal was to an incorrect court, the taxpayer has 30 days after the court determination to file an appeal with the correct court.
3. In a CDP appeals case, since the taxpayer has additional appeal rights, Appeals will hold the case for 60 days after issuing the Notice of Determination to the taxpayer. Collection will receive a copy of the Notice of Determination letter when it is issued to the taxpayer. If the taxpayer contacts us in response to the Notice of Determination, we can assist the taxpayer in carrying out

- the decision of Appeals, i.e., installment agreement. However, no enforcement action can be taken until the determination is final. If no further appeals are filed, the Notice of Determination is final.
4. In an "equivalent" hearing the decision is final when Appeals issues its decision letter, except as it relates to certain spousal defenses under IRC 6015 (b) or (c).
 5. Once the determination is final, a copy of the Notice of Determination letter or the decision letter, as applicable, along with a copy of the Appeals case memo (ACM) will be sent to Collection on Form 3210, Document Transmittal.
 6. For Due Process Hearings, Appeals will forward a second Form 3210 to the District SPf. The Form 3210 will be noted "Collection Due Process Appeal" . It will include a request to reverse the TC 520 cc 70 and a request to input the TC 550. The TC 550 request will include the new Collection Statute Expiration Date (CSED) and the appropriate IMF CSED Indicator (see 1.2.6) . Upon receipt, SPf will immediately request input of the TC 550 and the TC 521. The TC 521 will reverse the status 72. The case will return to the status it was in prior to the input of the TC 520.
 7. Collection will be responsible for implementing any agreement worked out in Appeals.

[5.1] 9.3.10 (02-26-1999)

Jurisdiction Retained by Appeals

1. The Office of Appeals retains jurisdiction with respect to any determination made under IRC 6320 or IRC 6330, including subsequent appeals requested by the taxpayer who requested the original Collection Due Process hearing on issues regarding:
 - A. collection actions taken or proposed with respect to such determination, and
 - B. after the person has exhausted all administrative remedies, a change in the taxpayer's circumstances which affects such determination.
2. Taxpayers, who request subsequent review of their case by Appeals under the changed circumstance provision under retained jurisdiction, must first exhaust all administrative remedies, such as the Collection Appeals Program (CAP). Taxpayers should be advised of the requirement to use CAP. Refer to 9.4, Collection Appeals Program.
3. Appeals will review the case first under the CAP provisions. If there has been a change in circumstances with respect to the taxpayer affecting the 6320 or 6330 determination, Appeals, under the retained jurisdiction provision, may consider issues that were raised and considered at the previous hearing.
4. The statutory period for collection is not suspended during the retained jurisdiction proceeding.
5. Lien and levy actions are not required by statute to be suspended. However, as a general rule, even when not required by statute, lien and levy actions will be

- suspended during the retained jurisdiction period. When it is determined that lien or levy action during this period is appropriate, i.e., collection is at risk, the lien or levy action must be approved by the group manager.
6. Similar to the equivalent hearing, the taxpayer will receive a decision letter upon completion of the review under the retained jurisdiction provision. The decision by Appeals is final with no further appeals to Tax Court or federal district court.

[5.1] 9.3.11 (02-26-1999)

Jeopardy Levy and SITLP

1. There are two exceptions to the pre-levy notice requirements of IRC 6330. They are:
 - A. when the collection of tax is in jeopardy under section 6331(a), or
 - B. a levy is served on a State to collect a Federal tax liability from a State tax refund, referred to as the State Income Tax Levy Program (SITLP).
2. In both of the above situations, when the taxpayer has not previously received a 6330 Notice of Intent to Levy and Notice of Your Right to a Hearing, the taxpayer will be given the opportunity for a hearing within a reasonable period of time after the levy. In a jeopardy levy situation, the taxpayer receives Pattern Letter 2439(P) which advises the taxpayer of the right to request a hearing under IRC 6330. Refer to the Notice of Levy Handbook, IRM 5.11. The SITLP program is temporarily suspended.
3. In a Jeopardy or SITLP levy situation, the taxpayer is afforded the opportunity for a Collection Due Process hearing. Refer to the Due Process procedures.

[5.1] 9.4 (02-26-1999)

Collection Appeals Program

1. In addition to the Due Process appeal rights discussed above, taxpayers can also appeal certain collection actions under the Collection Appeals Program (CAP).
2. Taxpayers can appeal under CAP when they are told by an IRS employee that a lien, levy or seizure action will be or has been taken, or that an installment agreement is denied or terminated. The taxpayer's right to appeal under CAP is connected to the specific planned or actual collection action.
3. When a taxpayer disagrees with a proposed or actual appealable action, advise the taxpayer of CAP, give him or her Pub 1660, Collection Appeal Rights. Explain that under CAP, the taxpayer must first discuss the issue with the group manager to see if resolution can be reached. Refer to 9.4.1 below.
4. When a request for an installment agreement is denied or when an existing installment agreement is terminated, advise the taxpayer of his or her right to appeal under CAP. Refer to the installment agreement procedures.

5. A taxpayer can appeal before or after a Notice of Federal Tax Lien (NFTL) is filed. A taxpayer can appeal denied requests to withdraw a NFTL filing and denied discharges, subordinations, and non-attachments of lien. Third party claims to property and nominee liens are also appealable under CAP. If a NFTL is filed, a taxpayer may have additional appeal rights under Due Process.
6. A taxpayer can appeal before or after a levy is issued. The taxpayer may have additional levy appeal rights under Due Process.
7. Once a seizure action is taken, the taxpayer has 10 business days to appeal the seizure action from the date the Notice of Seizure is provided to the taxpayer, or left at his or her usual abode or place of business. Publication 1660, Collection Appeal Rights, must be included with the Notice of Seizure.
8. When hardship is the only issue, taxpayers should be advised of their option to file a 911 with the Taxpayer's Advocate Office.
9. Actions under the control of a court of competent jurisdiction are excluded from this program.
10. Cases on taxpayers under the control of the Criminal Investigation Division will be excluded from this appeal process.

[5.1] 9.4.1 (02-26-1999)

Request for a CAP Appeal

1. The taxpayer must first discuss the case with the Collection manager. However, if agreement is not reached, advise the taxpayer that he or she can have the issue addressed by the Office of Appeals by filing a request in writing. Advise the taxpayer to use Form 9423, Collection Appeal Request and explain that the completed request needs to be submitted within two business days from the manager conference or collection action may resume.
2. Collection must send the case to Appeals within two business days of the manager's rejection or receipt of the taxpayer's request, whichever occurs later.
3. Generally, a copy of the entire case file should be sent to Appeals. However, if this is not possible, then Collection will transmit copies of all pertinent parts of the case file to Appeals via established local procedures using Form 3210, Document Transmittal. Use of fax may be necessary to expedite transmittal of the case to Appeals. Local Appeals and Collection offices need to establish procedures to ensure prompt transmittal of cases.
4. In some situations, a taxpayer may be entitled to appeal under both CAP and Due Process. Taxpayers need to understand their various appeal rights. If a taxpayer seeking to file a CAP appeal is also entitled to a Collection Due Process (CDP) hearing, ensure that the taxpayer understands the strict time frames for requesting a CDP hearing. However, the decision to file a request for a CDP hearing or a CAP appeal belongs to the taxpayer. In some situations, it may be necessary for the taxpayer to file both a CAP appeal and a request for a CDP hearing or

"equivalent" hearing. The CAP appeal can provide an expedited review of a specific collection action while the Due Process or "equivalent" hearing is in process.

5. Enforcement action during a CAP appeal will generally be suspended when the case is in Appeals. However, if enforcement action is appropriate, i.e., collection is at risk, the revenue officer may proceed with enforcement action. Enforcement action during the appeal must be approved by the group manager. Appeals must be advised immediately of any decision to take enforcement action.

[5.1] 9.4.2 (02-26-1999)

CAP Process

1. Appeals employees are expected to close CAP cases within 5 business days. Appeals will attempt to hold a conference with the taxpayer within 2 days of receipt of the case. However, if the taxpayer requests a conference delay and it is warranted, then a reasonable delay will be allowed. Usually, such a delay should not exceed 5 business days. If the taxpayer does not elect a conference within the time limits given, Appeals will return the case to Collection as a premature referral.
2. The short time frames have been set to give taxpayers an almost immediate decision on liens, levies, seizures, and rejection or termination of installment agreements. It also helps to ensure that taxpayers do not appeal solely to delay collection.
3. Appeals may contact revenue officers to seek clarification of an illegible or unclear statement in the file or to question them about procedural matters. Refer to 9.4 below, Communications with Appeals.
4. Appeals will review the case based on law, regulations, policy, procedures (National, regional, local), considering all the facts and circumstances. Local and regional procedures will only be considered if they are written and in accordance with the IRM.
5. Judgment is likely to be an issue on these types of cases although they can also involve legal or procedural issues. Appeals may reverse Collection's action if evaluation of the taxpayer's history and current facts and circumstances reveal a more appropriate solution.
6. Appeals will inform both Collection and the taxpayer of its decision as soon as possible within the 5 business day time frame. Appeals will contact Collection immediately upon making a decision. The decision may be given verbally followed by a written closing letter.
7. If Appeals has sustained the collection action, enforcement action may resume upon receipt of the verbal decision. Otherwise, the decision made by Appeals will be implemented. The closing letter should be given to the taxpayer with a copy to Collection and should clearly outline any agreement reached with the taxpayer. In cases where an Application for Taxpayer Assistance Order (ATAO) has been filed by the taxpayer, a copy of the closing letter should be given to the controlling Taxpayer Advocate Office.

8. Decisions by Appeals are binding on the taxpayer and Collection. Collection will take the actions directed by the Appeals decision. However, if the taxpayer defaults in the decision directed by Appeals, Collection is released from the terms of the agreement. The taxpayer may not appeal the same issue under CAP once Appeals has decided the issue on the same fact and basis, i.e., a subsequent levy on the same asset.
9. Should taxpayers withhold pertinent information or frame a false representation, any agreement made on behalf of the Service will be voidable. Before Collection declares an agreement void under this provision, the Collection group manager will confer with Appeals. If Appeals sustains Collection's determination, then enforcement action may resume immediately.

[5.1] 9.5 (02-26-1999)

Communications with Appeals

1. To ensure an independent appeals function within the Internal Revenue Service, communications between appeals officers and other Internal Revenue Service employees will be limited to ensure that such communications do not compromise the independence of the appeals officers.
2. Appeals may contact revenue officers to seek clarification of an illegible or unclear statement in the file or to question them about procedural matters. However, a clarification will not include asking for consideration of unconsidered issues or a general discussion of the issues that seeks additional input unless the taxpayer is given an opportunity to participate.
3. Therefore, it is important to forward to Appeals a well-organized case file with all case actions and contacts clearly and fully documented. Include a summary statement that addresses the reason why the issue could not be resolved. It should also address the collection alternatives offered by Collection or the taxpayer, and why these options were not viable.
4. In addition, in some situations, especially those pertaining to seizure action or cases with extensive case history, it may be helpful to include a checklist of significant case actions and applicable dates.

[5.1] 9.6 (02-26-1999)

Appeal Reports

1. Cases going to Appeals will be tracked using Appeals UNISTAR program. The following unistar codes are used:
 - o CAPLV is used for levies,
 - o CAPLN is used for liens,
 - o CAPSZ is used for seizures and
 - o CAPIA is used for denied or terminated installment agreements.
 - o DPLV for Due Process appeals for levies
 - o DPLN for Due Process appeals for lien
2. Closing codes used for CAP cases are:

- A. 14 = fully sustained, used when Collection's action is supported with no change.
 - B. 15 = not sustained, used when Collection's action is completely overturned. For example, closing code 15 would be used when a levy is released and replaced by an installment agreement.
 - C. 16 = partially sustained, used when only minor changes are made in Collection's action. For example, if filing of a Notice of Federal tax Lien is proposed, a minor change would be to give the taxpayer 10 more days to come up with the funds before the lien is filed. Closing code 16 is also to be used for situations where the taxpayer presents in Appeals a new acceptable proposal which was not offered to Collection, and which Collection would have accepted had they received it.
3. Closing codes for due process cases are:
- o Closing code 04 for nonpetitioned/agreed closures.
 - o Closing code 42 for petitioned cases.

Chapter 10 -- Taxpayer Contacts

[5.1] 10.1 (08-31-2000)

First Contact

1. Revenue officers should make prompt contact on all taxpayer cases. The first contact with a taxpayer can be a telephone call or field visit. During initial contact with a taxpayer, you must provide your title, last name, and identification number. In certain situations it may be most effective to phone and arrange an appointment with the taxpayer and/or his or her representative. In the case of an in-business taxpayer, a meeting at the place of business will facilitate review of any relevant books, records, etc., as well as provide an opportunity to view the business and its assets. Alternatively, an appointment letter may be sent. Pursuant to section 3705 of the Internal Revenue Service Restructuring and Reform Act of 1998 (RRA 98), all correspondence to taxpayers must include the employee's title, last name, identification number, and telephone number.

NOTE:

- Revenue officers assigned taxpayer cases located in a foreign country should make the initial contact via registered mail since time zones, travel concerns, and country restrictions may limit the ability to make telephone or field contact with the taxpayer.
2. Initial taxpayer contact should be made within the following time frames.
 - A. Contact BMF/IMF/NMF Large Dollar/X Coded Bal Due/Del Ret and Federal Agency Bal Due/Del Ret within 30 calendar days
 - B. Contact BMF/IMF/NMF/Bal Due/Del Ret and all others within 45 calendar days.
 - C. Contact FTD Alerts within 15 calendar days, and
 - D. Contact CIP Leads within 60 calendar days.

These suggested time frames were established as guidance for revenue officers throughout the Service. Revenue officers must document the case history sheet with the reason for any delay.

3. When a taxpayer misses a specific deadline, revenue officers are required to initiate follow-up action within ten (10) calendar days of the deadline unless unique circumstances, such as geographical considerations, etc., warrant a delay.
4. A phone call or appointment letter within the above time frames which does not result in contact with the taxpayer (leaving a message is not considered contact with the taxpayer) does not meet the requirement for timely contact.
5. Refer to IRM, 5.1.1.16.2(3) for instances in which time frames for timely initial follow-up contacts may be waived.

REMINDER:

Certain sections of the Fair Debt Collections Practices Act (FDCPA) apply to taxpayer contacts. See IRM 5.1.1.7.

[5.1] 10.2 (08-31-2000)

Effective First Contact

1. An effective first contact is the cornerstone to timely and effective case resolution. As part of the initial contact, the revenue officer needs to determine whether the taxpayer received Publication 1, Your Rights as a Taxpayer, as well as explain the collection process and the taxpayer's rights under that process.

If	Then
The taxpayer indicates that she/he did not receive Publication 1	The revenue officer will provide the taxpayer with a copy
The taxpayer has any questions about the provisions covered in Publication 1	The revenue officer should take the time to answer the questions
During the initial contact, or during subsequent contacts, the taxpayer requests to have the case reviewed by a supervisory official	The contact employee should give the taxpayer the name, telephone number and address of their supervisor

In the case history it must be documented that on the first contact with a taxpayer the revenue officer asked the taxpayer if they received Publication 1 and if the taxpayer had any questions.

NOTE:

See IRM 5.1.17 Third Party Contacts for IRC 7602 (c) procedures to follow whenever a contact may be made with anyone other than the taxpayer regarding the determination or collection of the taxpayer's tax liability.

* The goal of the initial contact is to bring the taxpayer into full compliance with all filing and paying requirements. The

revenue officer needs to:

1. Determine the current status of filing and paying.
2. Request immediate filing of all delinquent returns.
3. Request immediate full payment of all delinquent accounts.
4. Verify filing and paying when the taxpayer indicates that the tax was paid, returns filed, or both.

NOTE:

The exception to this is when fraud indicators are evidenced. See IRM 5.1.11.6, for additional information.

* If the taxpayer is unable to comply with the above, proceed as follows:

If	Then
Returns are due or the taxpayer is unable to provide proof of filing	Attempt to secure sufficient information to make a tax determination. Such information might include: [bullet image] income amounts [bullet image] income sources [bullet image] filing status [bullet image] gross wages paid [bullet image] withholding amounts, etc. If necessary, the information will allow the revenue officer to proceed with the next collection action, (i.e. 6020(b), substitute for return (SFR), or summons procedures). Request the maximum amount payable that day to avoid penalty and interest.
Tax is due	Determine if the taxpayer qualifies for a guaranteed or streamlined installment agreement (see IRM 5.14). If the taxpayer does not qualify for a guaranteed or streamlined installment agreement, consider and discuss other collection alternatives. Secure a minimum basic asset information, i.e., bank accounts, employer and wage information, and real and personal property owned. This information will help you assist the taxpayer in understanding collection alternatives. In addition a lien determination must be made in accordance with IRM 5.12, Federal Tax Liens.
Tax is due and the taxpayer is unable to pay in full or provide proof of full payment	Secure a minimum basic asset information, i.e., bank accounts, employer and wage information, and real and personal property owned. This information will help you assist the taxpayer in understanding collection alternatives. In addition a lien determination must be made in accordance with IRM 5.12, Federal Tax Liens.
Other action is required	

(i.e., payment tracer, Secure sufficient information to adjustment) take the necessary action.

The case is not resolved Establish a plan of action for during the initial contact resolving the case.

* When the taxpayer is required to take action (i.e., file returns, provide information, pay the balance, etc.) ensure that the taxpayer fully understands the following:

- A. what is expected (write a list if necessary),
- B. when it is expected (provide specific dates rather than a general time frame such as "in a couple of weeks"),
- C. the possible consequences of not complying with the request; that is, warn of specific enforcement actions that may be taken (i.e., lien, levy , IRC 6020(b) procedures).

* Optional Form 9297, Summary of Taxpayer Contact, can be used for providing this information to the taxpayer. When using this form, provide the original to the taxpayer and include a copy with the case file.

* In addition to the above procedures, take the following actions for corporations:

- A. Explain the Trust Fund Recovery Penalty provisions to the responsible or potentially responsible person(s).
- B. Begin Trust Fund Recovery Penalty investigation if full payment is not imminent. See IRM 5.7, Trust Fund Compliance Handbook for more information on initial Trust Fund Recovery Penalty determinations.

* In addition to the above procedures, take the following actions for sole proprietors and partnerships:

- A. Verify compliance with IMF filing and paying requirements
- B. Explain that sole proprietors and partners are personally liable for business debt
- C. Attempt to secure personal asset information.
- D. In the rare event Trust Fund Recovery Penalty provisions are applicable, follow procedures for corporations above.

NOTE:

See IRM 5.1.17, Third Party Contacts, prior to contacting any third parties regarding the collection of a taxpayer's liability.

[5.1] 10.3 (08-31-2000)

Contact Letters

1. Several pre-printed letters are available to correspond with taxpayers:
 - o Letter 725(DO) to set up an appointment with a taxpayer
 - o Letter 729(DO) to address unfiled returns
 - o Letter 728(DO) to provide the current balance due
 - o Letter 3220(DO) to provide the balance due after receipt of payment
 - o Letter 3221(DO) to respond to an inquiry regarding the balance due

2. All correspondence to taxpayers must include your title, e.g., Mr., Ms., last name, employee identification number, and telephone number.
3. Any letter relating to a joint return under IRC § 6013 must be sent separately to each individual who filed the joint return.

[5.1] 10.4 (08-31-2000)

Rights During Interviews

1. If a taxpayer clearly states during any interview that he or she wishes to consult with an authorized representative, the employee will suspend the interview to permit such consultation.

If	Then
The interview is being conducted because of a summons	The interview should not be suspended. Allow up to 10 business days for the consultation. This includes when a seizure is taking place
The interview is suspended	unless the delay will result in the disappearance of dissipation of the asset or if the seizure is being made pursuant to a writ or judicial approval.

* The taxpayer has the right to make an audio recording of an in-person interview, when the interview relates to the determination or collection of tax (see IRM 5.1.1.11).

[5.1] 10.5 (08-31-2000)

Privacy Act of 1974

1. The Privacy Act of 1974 (5 U.S.C. § 552a) created a series of requirements governing the record-keeping practices of federal agencies, as they relate to the collection, maintenance, and disclosure of information pertaining to individuals. The statute also provides individuals with certain rights of access to agency records pertaining to them. For a more detailed discussion of IRS' implementation of the Privacy Act, and Service employee responsibilities under the statute, see IRM 1.3, Chapters 14 and 19.
2. Taxpayers seeking access to records pertaining to an open case should, to the extent possible, be given access to their records as part of the normal administrative process without resort to a formal Privacy Act or Freedom of Information Act request. However, where a taxpayer insists upon the more formalized procedures of the Privacy Act or the Freedom of Information Act (5 U.S.C. § 552), the taxpayer should be directed to the disclosure office having responsibility for the records. Any written request received by Collection personnel which cites the Privacy Act or Freedom of Information Act should be forwarded to the appropriate disclosure office for handling in accordance with the provisions of IRM 1.3, Disclosure of Official Information Handbook.

3. Although taxpayers have certain rights of access to agency records under the Privacy Act, as well as the Freedom of Information Act, returns and return information are confidential in accordance with I.R.C. § 6103(a). Returns and return information shall be disclosed only as authorized by I.R.C. § 6103 and Treasury Regulation 301.6103.
4. Collection employees are authorized by I.R.C. § 6103(k)(6) and Treasury Regulation 301.6103(k)(6)-1 to disclose return information to the extent necessary to gather data which may be relevant to a Collection investigation and which is not otherwise reasonably available. No special permission or authorization is needed to make investigative disclosures under the circumstances and conditions described in Treasury Regulation 301.6103(k)(6)-1, so long as the Collection employee is performing official duties to collection activity. It is important to note that I.R.C. § 6103(k)(6) and Treasury Regulation 301.6103(k)(6)-1 permit the disclosure of return information in the investigatory process, but do not authorize the disclosure of the taxpayer's return. See IRM 1.3, Chapter 21, for more detail on investigative disclosures.

NOTE:

Authorization to disclose the taxpayer's return information under IRC 6103 should not be confused with authorization to contact third parties under IRC 7602(c). Authorization to disclose information does not authorize the Internal Revenue Service to contact third parties for purposes of obtaining information without complying with the requirements of IRC 7602(c). Accordingly, if the Internal Revenue Service contacts a third party to obtain information about the taxpayer, then the advance notice and record keeping requirements of IRC 7602(c) must be met unless the taxpayer authorizes the contact.

[5.1] 10.6 (08-31-2000)
Right to Representation

1. Taxpayers have the right to be represented, in their tax matters, by:
 - o an attorney
 - o a certified public accountant
 - o an individual enrolled to practice before the service
 - o an officer or full time employee of the taxpayer organization (e.g. , corporation)
 - o a fiduciary for the taxpayer
 - o a member of the taxpayer's immediate family, or
 - o any individual authorized under 31 CFR 10.7(b).Additionally, any person may furnish information or appear as a witness for the taxpayer.
2. If all open periods are not reflected on Form 2848, Power of Attorney and Declaration of Representative, contact the taxpayer to secure an up to date form.

[5.1] 10.7 (08-31-2000)
Other Taxpayer Rights

1. Taxpayers generally have the right to designate the application of voluntary payments to their accounts. Upon request, taxpayers are entitled to receipts for any payments made on their accounts, whether in current or delinquent status.

If	Then
Cash payments are received	Then issue Form 809, Receipt for Payment of Taxes. See IRM 5.1.2

NOTE:

Usually, the taxpayer's canceled check, copy of bank check or money order, etc., is his or her receipt for non-cash payments. However, a receipt will be issued if requested by the taxpayer.

- * Taxpayers have the right to submit an offer to compromise a tax liability, and have the offer considered on its merits. See IRM 5.8, Offer in Compromise.
- * A taxpayer may have a right to an installment agreement. See IRM 5.14 , Installment Agreement Handbook.
- * Taxpayers may request that their case be transferred to another district, or to another office within the same district. Generally, such requests will be honored if the taxpayer has a valid reason.

Chapter 11 -- Delinquent Return Accounts

[5.1] 11.1 (05-27-1999)
Delinquent Return Investigations

1. Return Delinquency cases can be worked in combination with balance due accounts or as stand-alone investigations. Achieving full compliance is the goal of these investigations including securing the full payment of the tax liability with the delinquent return.

[5.1] 11.1.1 (05-27-1999)
Taxpayer Contact

1. Revenue officers must ensure that taxpayers' rights are protected as they conduct delinquency investigations. At first contact, defined as telephone or field call, revenue officers will ensure that the taxpayer has received Publication 1, Your Rights As A Taxpayer. If first contact is by telephone and the taxpayer has not received a copy of the publication, the interview may be continued. However, a copy should be sent to the taxpayer by certified mail.
2. Revenue Officers are required to document the case file that the taxpayer has been provided this information.
3. Taxpayers who reach an impasse with interviewers regarding their liabilities will be given the opportunity to meet

with the supervisory official. In these cases the taxpayers should be advised of their appeal rights even if they do not request a higher level of review.

4. The taxpayer may be represented during a taxpayer interview by any attorney, certified public accountant, enrolled agent, enrolled actuary, or any other person permitted to represent a taxpayer before the Service, who is not disbarred or suspended from practice before the Service and who has a properly executed power of attorney from the taxpayer.
5. If the taxpayer clearly indicates during an interview that he/she wishes to consult with a representative, the interview must be suspended to afford the taxpayer the opportunity to consult with the representative. If the taxpayer abuses this process through repeated delays or suspensions of interviews to consult with other representatives, the revenue officer should serve a collection summons upon the taxpayer. If a summons is not issued, the revenue officer will document the reasons for non-issuance of the summons.
6. Absent a summons, the taxpayer cannot be required to accompany the representative to the interview.
7. Revenue officers may notify the taxpayer that the representative is responsible for unreasonable delay or hindrance, request that the taxpayer appear for an interview and inform the taxpayer that a collection summons requiring the taxpayer's appearance at an interview may be issued.
8. The revenue officer is free to pursue other avenues of enforcement such as 6020(b) procedures or referrals to Examination or Criminal Investigation Division when the information available warrants this action, whether there is an impasse or not.
9. The revenue officer should attempt initial contact with the taxpayer at the taxpayer's residence or place of business when existing information is insufficient to resolve the delinquency investigation. While making the field contact, the revenue officer should review the taxpayer's standard of living, assets, number of employees and other pertinent information for assistance in determining potential liability and collection potential.

NOTE:

However, IRC 7602(e) prohibits the Service from using financial status or economic reality techniques to determine that the taxpayer received unreported income, absent a "reasonable indication" to the contrary.

10. If the TDI cannot be resolved following the initial attempt, the field investigation should include contacts with such third parties as are necessary to resolve the TDI (e.g., neighbors, business associates, employers, financial institutions). However, the revenue officer first must follow the Service's procedures for advising the taxpayer that third parties may be contacted and for keeping a record of such contacts. See IRM 5.1, General. When contacting third parties, field personnel are permitted to disclose information, but only to the extent necessary to get the information to resolve the case.

11. Local management may provide additional tools for ensuring proper documentation of these actions. The case file history should provide a cross-reference so that the information can be readily located.

[5.1] 11.1.2 (05-27-1999)

Full Compliance Check

1. Determine and document that all returns are filed and paid. A full compliance check will include reference to the following, as appropriate:
 - A. All required returns (i.e., Individual and Business).
 - B. Timely payment of estimated taxes and federal tax deposits.
 - C. Timely submission of Forms 1099.
 - D. Retention and submission of Form W-4.
2. Determine and document the root cause for the tax delinquency and instruct the taxpayer to take the necessary corrective steps.

[5.1] 11.1.3 (05-27-1999)

Documentation

1. Use Integrated Data Retrieval System (IDRS), applicable Corporate Files On Line (CFOL-IMFOL,IRPOL,BMFOL, etc.) command codes to determine the types of tax and the periods for which the taxpayer may be liable.
2. Confirm all tax periods are filed for the preceding six year period, securing a copy of the taxpayers return if necessary. Check compliance through the current tax period.
3. List all delinquent tax periods on the face of the TDI.
4. Determine the taxpayer's compliance with other types of taxes appropriate for their personal or business activity.
5. Document full compliance after initial contact and when closing the return delinquency investigation.
6. Collection employees should note one of the following statements in the case history:
 - A. "Taxpayer in full compliance with all filing and paying requirements."
 - B. "Full compliance check made. Taxpayer not in compliance with filing or payment for ----."
(Note-delinquent returns and periods should be added to this statement).
7. Document the pre-assessment collection determination for periods closed by TC 599 CC 69.

[5.1] 11.1.4 (05-27-1999)

Unable to Locate

1. All reasonable efforts should be made to locate the taxpayer before closing the cases as unable to locate. See IRM 105.3, Locating Taxpayers.

[5.1] 11.1.5 (05-27-1999)

Cases Requiring Special Handling

1. Revenue officers will use special processing guidelines when working some cases of a unique, sensitive or complex nature. For example, such cases may involve taxpayers who are potentially dangerous, who use frivolous legal arguments to delay collection, taxpayers who are under investigation for potential tax fraud, and taxpayers who are in bankruptcy.

[5.1] 11.1.5.1 (05-27-1999)

Restricting Field Contact

1. When working cases on potentially dangerous taxpayers and tax payers who use frivolous legal arguments to delay collection, field contact should be avoided if at all possible, and will be made only after office methods, such as correspondence, telephone contact, and setting office appointments, have proven unsuccessful.

[5.1] 11.1.5.2 (05-27-1999)

Criminal Investigation Cases

1. TDIs with Case Code "914" identify taxpayers who are under investigation by the Criminal Investigation Division. Follow local procedures when working such TDI's.
2. TDIs with a notice code "Z" indicate a reversed TC 914 for the TDI period.

[5.1] 11.1.5.3 (05-27-1999)

Exempt Organizations

1. Refer the case to the Examination Division when:
 - A. The taxpayer claims to be a church or religious order, and no determination letter is available. Secure a written statement from a responsible officer that the organization is exempt from filing information returns under IRC 6033(a).
 - B. The organization claims it is not a private foundation.
 - C. The organization is no longer in existence, secure a copy of the document authorizing dissolution and a statement showing disposition of assets.
 - D. A person or entity claims the TDI organization has merged with another organization, note the name and EIN of the surviving organization as well as the merger details.

[5.1] 11.1.5.6 (05-27-1999)

IRS Employee Return Delinquency

1. Refer to procedures for handling cases on IRS employees in Chapter 7 of the Collecting Contact Handbook.
2. IRS employee TDIs are identified by SELECTION CODE 92.

These TDIs are assigned to highly qualified revenue officers who must complete the investigation within 60 days of receipt.

3. If necessary, verify the employment status of the taxpayer with the appropriate Chief, Support Services. The Post of Duty code appears in the Master File History Section of the TDI.
4. Do not refer these cases to the Examination Division.
5. If a delinquent return is secured, record the following information as the last entry of the history sheet:
 - A. Date the return was secured.
 - B. Amount of tax, penalty and interest due identified by "TPI DUE" .
 - C. Amount of refund due identified as "REFUND" .
 - D. Amount due "AMT. DUE" .
 - E. Date paid "DATE PD" .
 - F. "EMPLOYEE DEC'D" when applicable.
6. When the TDI is closed write in red "SELECTION CODE 92" on the face of a 3 x 5 index card and staple it to the upper left corner of the TDI so as to extend approximately one inch above the TDI.
7. When the IRS employee is in the jurisdiction of another service center, send a photocopy of the TDI to the service center Collection branch where the TDI was issued. Originals and photocopies should be sent in accordance with, IRM 1.16.8, Physical Security Standards.

[5.1] 11.2.3 (05-27-1999)

IDRS and CFOL Command Codes

1. Refer to Document 6209 for specific CFOL and IDRS command code formats which can facilitate nonfiler research. Consider using:
 - A. SUPOL
 - B. IRPOL/IRPTR
 - C. INOLE
 - D. SUPRQ
 - E. TDINQ

[5.1] 11.3 (05-27-1999)

Secured Returns

1. Collection personnel securing delinquent returns will advise the taxpayer that all tax, penalty and interest is immediately due.
2. If a delinquent balance due return(s) is secured from a bankrupt taxpayer, check IDRS prior to submitting the return(s) to make sure a TC520 CC 8X has been input. If there is no TC 520CC 8X, contact SPf immediately so they may determine if a freeze code is necessary before sending the return to the service center for processing. Send a copy of all balance due returns to SPf. See IRM 5.9 Bankruptcy Handbook.
3. All delinquent returns secured in Collection will be date stamped with an official received date stamp by the securing employee, control clerk, or other designated

- employee. If no date stamp is available. Certain timely filed tax returns do not require date stamping.
4. If a delinquent return appears to have fraud potential related to a questionable refund, refer the return to Criminal Investigation function as described in Section 11.6 of this chapter.
 5. In some cases a taxpayer may have returns with a refund due and have a balance due on other returns. Attach Document 6469 to the balance due returns to expedite processing. The refund returns will subsequently post and offset to the balance due module.

[5.1] 11.3.1 (05-27-1999)
Returns With Payment

1. Penalties and interest should be computed if the full amount due is collected. If a penalty is not to be asserted due to reasonable cause, enter "Reasonable Cause" on the appropriate line in the penalty block on the face of the return or on Form 4364, Delinquency Computation. Attach Form 4364 to the left hand side of the return. If the penalty exceeds the criteria in text 552 of LEM V, attach to the return a written statement or Form 4571, Explanation for Late Filing of Return, from the taxpayer and obtain group manager's initial for each reasonable cause determination.
2. Except for potential trust fund recovery penalty situations, partial collections secured on multiple returns will be applied first on the oldest return in order to tax, penalty, and interest, unless the taxpayer specifically designates otherwise.
3. In cases where potential exists for the application of a trust fund recovery penalty, follow IRM 5.7, Trust Fund Compliance guidance.

[5.1] 11.3.2 (05-27-1999)
Returns Without Full Payment

1. When a return is received without full payment of tax, penalty, and interest, contact the taxpayer and demand full payment (see IRM 5.1, Chapter 10. If full payment of all money due is not secured, the revenue officer should make all reasonable efforts to collect full payment or resolve the liability in one of the following ways:
 - A. grant an installment agreement (see IRM 5.14, Installment Agreements, 5.2, Reports, and 5.4, Collection Support); or,
 - B. report the account currently not collectible (see IRM 105.1, Collecting Contact, 5.2 Reports, and 5.4 Collection Support).
2. If the liability can be resolved by (1) above, write "TC 599 CC 69" on the return. The revenue officer can verify the information contained on the Collection Information Statement used in making the determination without delaying the processing of the return. When there is no open assignment, use Form 2209, Courtesy Investigation,

per IRM 5.1, Chapter 8. If the subsequent investigation reveals additional assets that can be used to collect the liability, the revenue officer should have his/her group manager request the issuance of the TDA via CC STAUP or RWMSL. If the liability is not resolved and collection activity is not being pursued, TC 599 CC69 will be used for those returns where the closing codes in paragraph (4) below, do not apply.

3. If enforced collection action appears necessary, request a prompt assessment per IRM 5.1, Chapter 4.
4. In the following situations, use the corresponding closing code:
 - A. If the taxpayer is in bankruptcy, write TC 599 and the appropriate taxable or nontaxable CC.
 - B. On returns prepared and filed under IRC 6020(b):

IF	Then
if the case is unagreed or no response	write "TC 599 CC 63" ;
	or,
if the taxpayer signs the proposed return,	write "TC 599 CC 64"

- * Any BMF or IMF account that shows closing codes 63 or 64 with TC 599 will receive a first notice from the Master File and then will be accelerated to TDA status 26 the following week. Letter 1058, Final Demand and Notice of Intent to Levy, will not be generated. Therefore, the revenue officer must ensure that the taxpayer receives this letter and Publication 1, Your Rights as a Taxpayer, when the TDA is issued.
- * If a TDA is received for a return processed per (2) above and no further action is needed, route the TDA to the unit responsible for maintaining the pre-assessment file. This unit will associate the TDA with the case file.
- * Initiate a Trust Fund Recovery Penalty investigation, if required.

[5.1] 11.4 (05-27-1999)
Enforcement Criteria

1. When a taxpayer is advised to file all required delinquent returns but neglects, refuses or states an inability to file within the established time frame set by the revenue officer, a determination will be made as to the extent compliance with the filing requirements will be enforced.
2. The application of enforcement procedures will depend upon the facts of each case. Policy Statement P-5-133 outlines general guidelines and specific factors to consider when determining whether to enforce filing requirements.
3. Factors which must be considered for enforcement are:
 - A. Degree of flagrancy and history of noncompliance;
 - B. Effect on voluntary compliance;
 - C. Whether the delinquency involves trust fund monies collected;
 - D. Special circumstances peculiar to a specific taxpayer, class, industry or type of tax;
 - E. Existence of income from illegal sources
 - F. Cost to the service to secure a return with respect

to anticipated tax revenue. (See LEM V)

G. Bankruptcy; contact SPf.

4. Filing requirements will normally be enforced for a six year period. However, returns may be requested or the taxpayer may file for all open periods regardless of the age of the delinquency.
5. If more or less than six years of filing requirements will be enforced, the revenue officer will document the case file with the facts and reasons supporting this decision. Written managerial approval is required.
6. Calculate the 6 year period for enforcement by starting with the tax year that is currently due and go back 6 years. For example, if you are making a field call on October 1,1997, the enforcement period will cover tax years 1991 through 1996.

[5.1] 11.4.1 (05-27-1999)

Minimal or No Tax Due on Returns and Collectibility Factors

1. Policy Statement P-5-133 allows an investigating employee to close a TDI without enforcement because:
 - A. There would be no tax due on the delinquent return;
 - B. There would be minimal tax due on the return (minimal is defined in LEM V); or
 - C. The cost to the Service to secure a return would exceed anticipated revenue. (See Section 11.4.1(3), of this chapter
2. The investigating employee will take the following actions for each TDI closed under the provisions of P-5-133:
 1. Document the result of the field contact, or, if applicable, the reasons why a field call was not made;
 2. Compute the anticipated tax due for each period and include on the back of the TDI or in the case file;
 3. Document the basis for the determination; and
 4. Secure managerial approval on the TDI.
3. Generally the nonfiler's ability to pay will not be a factor in determining whether or not to secure less than six years of returns. On a case-by-case basis, service employees will apply prudence when it is clear from information available that the nonfiler does not have or will not have the ability to pay some if not all, of the tax liability over the 10 year statutory period to collect. The following are situations where we should not pursue securing 6 years of returns:
 - A. A defunct corporation where no assets exist to satisfy any part of a tax liability and there is no possibility of a transferee assessment;
 - B. A deceased taxpayer where no estate exists to satisfy any part of a tax liability and there is no possibility of a transferee assessment;
 - C. A foreign national taxpayer who has departed the United States with no expectation of return and no identifiable assets existing in the United States to satisfy any part of the tax liability, or collection cannot be pursued abroad through terms of a tax treaty or lack of a tax treaty;
 - D. A taxpayer whose minimum incarceration is a period

- equal to or exceeding the normal collection period and no identifiable assets exist to satisfy any part of the tax liability;
- E. A taxpayer who has minimal assets and earning potential due to advanced age, illness, or debilitating condition which will permanently diminish income producing potential.
4. The following returns must be secured regardless of dollar amount:
- A. nontaxable returns such as those in Form 990 series;
 - B. Form 1065, U.S. Partnership Return of Income.
5. For employment tax returns, the "net tax due" is determined before the application of credits.
6. The taxpayer will be informed, if personally contacted, that a refund will not be issued unless a return is filed within three years of the due date of the return.

[5.1] 11.5 (05-27-1999)

Refusal to File -- Initial Activity

1. Collection employees will not solicit delinquent returns when information is developed that a taxpayer's failure to file a required return is wilful, or there is any indication of fraud. The employee will suspend activities and promptly report the findings to the District Fraud Coordinator.
2. The revenue officer will set a specific date for filing a return(s) on initial contact if no willful failure to file is established or no indication of fraud exists.
3. The taxpayer will be informed that failure to file the delinquent return(s) by the specific date will be considered a refusal to file under the provisions of the Internal Revenue Code and enforcement action may be taken.
4. Enforcement action taken by Collection employees includes:
 - A. Referral to the District Fraud Coordinator
 - B. Referral to the Criminal Investigation Division, See Fraud Referral Handbook
 - C. Summons, see IRM 109.1
 - D. Referral to Examination, see Section 11.7 of this chapter
 - E. Referral to the ASFR unit
 - F. Processing of employment, excise tax and partnership returns under 6020(b) of the Internal Revenue Code.

[5.1] 11.6 (05-27-1999)

Referrals to Criminal Investigation

1. The Fraud Referral Handbook, IRM 104.2, is the comprehensive guide for compliance functions, covering the development of potential fraud issues, referrals for criminal fraud and the duties and responsibilities for joint investigations. This Handbook should be used as the revenue officer's reference for identifying and developing criminal investigation, referrals.
2. Fraud may exist where a taxpayer willfully attempts to illegally underreport taxes, not pay taxes or both.

Willfulness means the individual acted deliberately with the specific intent of violating the law.

3. Refer issues of potential fraud to the District Fraud Coordinator.
4. The revenue officer is responsible for identifying potential fraud and referring that taxpayer to the Criminal Investigation Division. The majority of criminal fraud cases will be established based on violations of:
 - A. A taxpayer's willful failure to file a return (Section 7203) (See LEM V);
 - B. A taxpayer's willful failure to pay taxes owed (Section 7203);
 - C. A taxpayer's willfully submitting a false financial statement under penalty of perjury (Sections 7206(1) and 7206(4));
 - D. A taxpayer's failing to collect and deposit in a special trust fund account (Section 7512 and 7215).
 - E. A taxpayer's evasion of payment (Section 7201).
 - F. A taxpayer's willful failure to collect or pay over tax (Section 7202).
 - G. A taxpayer's submission of fraudulent returns, statement, or other documents (Section 7207).

[5.1] 11.6.1 (05-27-1999)

Preparing and Processing Referrals

1. Procedures for developing fraud referrals and preparing Form 2797, Referral Report of Potential Criminal Fraud Cases, are contained in the Fraud Referral Handbook.
2. Procedures for processing a referral through Collection to CID follow:
 - A. If the revenue officer suspects fraud, he/she will discuss the issues with the group manager;
 - B. If the group manager concurs, hold a conference with the group manager, the CFf employee and the cross functional District Fraud Coordinator (DFC);
 - C. The DFC will conduct further case review/analysis, researching the issues, reviewing LEM criteria and legal interpretations, and providing feedback to the CFf employee and group manager;
 - D. The CFf employee will then proceed to fully develop the potential fraud issue(s) with the guidance and recommendations of the group manager and DFC;
 - E. The revenue officer will prepare Form 2797. The referral should be a detailed, factual presentation of those factors that were used to establish firm indications of fraud. The report should include, but is not limited to a summary, of the taxpayer's explanation of the affirmative acts of fraud, the method used for income verification, and the estimated tax liability;
 - F. Form 2797 should be submitted to the group manager and DFC for approval;
 - G. After approval the Form 2797 is submitted to the designated CI manager;
 - H. Within 10 workdays of receipt of the Form 2797, hold a four way conference between the Collection group

manager, and revenue officer, and the CI manager and agent to evaluate the referral. If possible the DFC will attend;

- I. A 10 day extension will be allowed if CI needs additional time to evaluate the referral. A final determination of the case should be made at this second four way meeting. Any further extensions of time require the Division Chiefs' approval.
3. Once CI has accepted the referral and opens a Subject Investigation and a delinquency investigation is outstanding the revenue officer will:
 - A. Insert the notation "Referred to Criminal Investigation for Fraud Investigation" in Remarks or History Section of the TDI;
 - B. Attach a copy of Form 2797 to the back of the TDI;
 - C. Use closing code TC 596 00 57 for the earliest period of each MFT printed on an IMF TDI

NOTE:

Do not use TC 596 on BMF TDIs. Hold BMF cases until TC 914 has posted and a recall is received on a Daily Transaction Record (DTR).

[5.1] 11.7 (05-27-1999)

Referrals to Examination

1. If after the revenue officer has completed a field investigation, the taxpayer fails to file a return(s) and it is determined that the failure to file is not willful or there is no indication of fraud, the case may be referred to Examination. (See IRM 104.2 Fraud Referral for definitions of willfulness and indications of fraud criteria.)
2. Do not refer the taxpayer to Examination if:
 - o The case may be closed by criteria established in Section 11.4 of this chapter, or
 - o All attempts to locate the taxpayer or their legal representative have been unsuccessful.

EXCEPTION:

make a referral if the taxpayer has assets that may be attached and/or current taxable income even if the taxpayer is unable to locate or unable to contact.
3. Refer to Examination only those Business Masterfile (BMF) taxpayers that cannot have returns prepared under authority of Internal Revenue Code section 6020(b) or where there is an employee classification issue.

[5.1] 11.7.1 (05-27-1999)

Preparation of Form 3449

1. Prepare Form 3449, Referral Report, with sufficient information for Examination to prepare a return(s) for taxpayers who refuse or fail to file once contacted.
2. In completing Form 3449, the revenue officer will follow steps outlined in (3)-(10) below:
3. For IMF referrals, state the income, the amount of

withholding and compute the potential tax due using Filing Status 1 or 3 with no deductions or exemptions. State what documents were used to compute income and withholding;
NOTE:

- If married, prepare a separate Form 3449 for each liable spouse for individual income tax referrals.
- Filing a joint return is an election made by the taxpayer. Compute tax only on the basis of and individual. Use Filing Status 3 to compute the tax.
- 4. Describe the source of income for the taxpayer, ie; self employed computer programmer, insurance salesman, trust fund income for IMF, etc.;
- 5. Attach all documentation substantiating income. This includes:
 - 1. IDRS\CFOL research
 - 2. TDI supplements
 - 3. Summoned documents
 - 4. Relevant case history
- 6. Secure managerial approval
- 7. Forward approved part 1 and 2 of the Form 3449 to Examination
- 8. Retain Part 3 of Form 3449 and attach it to the TDI file.
- 9. Close the oldest module of each MFT on the TDI or IDRS, TC 95, 0057;
- 10. If an erroneous referral is made, prepare a terminal input request for input of TC 592.
- 11. If a referral is returned or surveyed by Examination, resubmit the referral if there is additional documentation supporting the preparation of a return by Examination.

[5.1] 11.7.2 (05-27-1999)

Referrals Concerning Underreported Tax

- 1. If an IMF delinquent return(s) is secured or if the taxpayer establishes that a return(s) has been previously filed, the revenue officer will not attempt to audit, examine or verify the correctness of the return.
- 2. The revenue officer will:
 - A. Compare the income reported on the return with the information on the TDI supplement;
 - B. Determine if income that has come to the attention of Collection personnel that has not been subject withholding or reported on Form 1099 or other such IRP documents has been reported on the return;
 - C. Compare withholding reported to the IRS to that stated on the return.
- 3. If income has not been reported by the taxpayer or there is an overstatement of credits and indications of fraud do not exist, the revenue officer may attempt to resolve the discrepancy with the taxpayer. If unable to resolve the differences and the amount in question exceeds the amount shown in LEM V, prepare Form 3449 with a narrative and the amount of underreported tax. The information will be referred to Examination function in the service center.
- 4. When there is a discrepancy in information reported on a secured BMF return resulting in an underreporting of taxes and no signs of fraud or willfulness exist, will be

referred to the district Examination Division on Form 3449. The 3449 should include an estimate of the dollar amount of the misstatement and the source or object resulting in understatement.

[5.1] 11.7.3 (05-27-1999)

Excise Tax Returns

1. Form 720, Quarterly Federal Excise Tax Return, may be prepared under the authority of IRC 6020b if a taxpayer fails or refuses to file.
2. If the Collection employee working the case determines that preparing the returns will involve extensive scrutiny of books and records or will pose complex legal questions, the returns will not be prepared by them. The taxpayer will be referred to the Examination function on Form 3449. The referral will contain all facts relative to the preparation of the return.

[5.1] 11.7.4 (05-27-1999)

Referrals to the Employee Plans/Exempt Organization Division (EP/EO)

1. If a revenue officer encounters a responsible officer of an exempt organization who refuses to file a required exempt organization return, the organization should be referred to the EP\EO key district for the region. The key district offices are as follows:
 - A. Delaware/Maryland District, Southeast Region
 - B. Brooklyn District, Ohio District, Northeast Region
 - C. North Texas District, Midstates Region
 - D. Los Angeles District, Western Region.
2. A summons does not have to be served prior to referring a case to EP/EO.
3. Include all information which will assist EP/EO in preparation of the return in the referral report.
4. Form 5500 series (MFT 74) are no longer worked in Collection Field function. If a TDI includes a Form 5500 delinquency and the plan number is 001-500, the revenue officer will:
 - A. Prepare Form 3449, Referral Report, completing the entity portion of the form and attaching a copy of the TDI and case file history
 - B. Close the TDI using TC 595 CC57
5. If a TDI is for any other Form 5500 series or where the plan number is 501 or higher, close the TDI using TC 590 CC50.

[5.1] 11.7.5 (05-27-1999)

Employer/Employee Relationship Questions

1. The Employment Tax Program is responsible for determining when income of independent contractors or officers of corporations should be reported as wages subject to income tax and or FICA. The program responsibilities involve

determining the appropriateness of the following:

- A. Withholding of income tax on wages of employees reported on Form 941, 941-M and Form 1042
 - B. Employer tax and employee tax (Social Security) under the General Insurance Contribution Act Form 941, Form 942, Form 943 and Schedule H (Form 1040)
 - C. Employer tax and employee tax for retirement purposes imposed on employers of individuals performing railroad services and the railroad employee representatives tax reported on CT-1 and CT-2
 - D. Withholding on certain gambling winnings reported on Form 941, Form 945 and Form 1042 by the payor of winnings
 - E. Backup withholding
 - F. Tax for unemployment insurance under the Federal Unemployment Act reported on 940
 - G. Withholding of tax under IRC 1441 and 1442
2. Revenue officers will make referrals to the district Employment Tax Program or the Chief, PSP, in the Examination Division when they determine during an investigation that a taxpayer may be treating employees as independent contractors or officers may be taking draws, loans, dividends, professional or administrative fees, etc., to avoid reporting taxable wages.
 3. The revenue officer will refer potential Employee/Employer relationship determinations on Form 3449 relating all the facts of the case.
 4. Internal Revenue Manual 4600, Employment Tax Procedures, contains additional information for all functions pertaining to the administration of Employee/Employer classification issues.

[5.1] 11.8 (05-27-1999)

Substitute for Returns

1. The Service may prepare an individual's income tax return on their behalf under Section 6020(b) of the IRC. The Automated Substitute for Return (ASFR) system was designed to assess returns of wage earners who fail to file using Information Return Master File (IRMF) information. The automated process is located in the service centers.
2. TDIs are referred to ASFR for processing when there are no unresolved taxpayer delinquent accounts (TDA) associated with the taxpayer and if the case meets certain selection code criteria. The case may be sent to ASFR directly after the final TDI notice by the Automated Collection System (ACS) or by revenue officers.
3. Revenue officers may refer IMF TDIs to ASFR when they meet the following criteria:
 - A. the taxpayer is not self-employed
 - B. the total income is less than \$100,000

EXCEPTION:

Refer the taxpayer whose module(s) is selection code 39.

 - C. the IRP income is more than 75% of the taxpayer's AGI or TPI shown for the last return filed (LRF)
 - D. the selection code is 12, 13, 14, 39, 93 or 94

- E. the tax year is no older than six years prior to the current year
- F. there is no current or pending TC 530 on the account.
- G. the taxpayer address has been verified.
- 4. Prior to sending the TDI to ASFR complete the following:
 - A. Resolve all open TDAs.
 - B. Request on Form 4844, Request for Terminal Action, that the number DOAO8000, be input to reassign the case to ASFR.
 - C. Attach Form 4844 to the TDI and process the TDI as a closed case using routine local procedures.

NOTE:

Terminal input operators will input directly on IDRS terminals the reassignment to ASFR.

- 5. Since installment agreement cannot be made if there are unfiled returns, TDIs with proposed installment agreements or in Collection status 60 cannot be processed through ASFR.
- 6. If TDAs are resolved by continuous levy (status 60 with the agreement locator number of XX08), refer a TDI to ASFR. Prepare Form 4844 to request that the service center open a control base for the delinquent years using CC ACTON, category code "SFR" , status code "B" . Do not assign the TDI to DOAO8000.
- 7. Infrequently, the revenue officer may receive a TDA after the related TDI is sent for ASFR processing. The TDI status will be identified by the literal "SFR" as the category code in the Case Control and History section of CC TXMOD.

- | | |
|---|--|
| If... | Then... |
| the 30 or 90 day letter has been sent to the taxpayer | the TDI will be T-signed to DOAO8000. |
| the 30 or 90 day letter has not been sent to the taxpayer | both the TDA and TDI will be reassigned to a revenue officer |
- * If contact has been made with a taxpayer whose return is being prepared by ASFR, attempt to secure the return(s). Do not issue a summons if the taxpayer refuses to file.
 - * If a return is secured for a period being ASFR'd, attach Form 1725, Routing Slip, to the face of the return(s). Annotate Form 1725 with the following: "Route return(s) to the service center, Attn: ASFR Unit" . Submit through normal district channels.
 - * If the TDA is resolved and the TDI is still assigned to ASFR, change the assignment number to DOAO8000 via Form 4844.
 - * Use Form 3210, Document Transmittal to notify the service center ASFR Unit of any change in address, DTRs, correspondence or other information affecting the TDI in ASFR.

[5.1] 11.9 (05-27-1999)

IRC 6020(b) Authority

- 1. The following returns may be prepared, signed and assessed under the authority of IRC 6020(b):
 - A. Form 940, Employer's Annual Federal Unemployment Tax Return
 - B. Form 941, Employer's Quarterly Federal Tax Return
 - C. Form 942, Employer's Quarterly Tax Return for

- Household Employees
 - D. Form 943, Employer's Annual Tax Return for Agricultural Employees
 - E. Form 720, Quarterly Federal Excise Tax Return
 - F. Form 2290, Heavy Vehicle Use Tax Return
 - G. Form CT-1, Employer's Annual Railroad Retirement Tax Return
 - H. Form 1065, U.S. Partnership Return of Income
2. The following are authorized to execute returns under IRC 6020(b):
- A. Revenue officers.
 - B. Automated Collection System (ACS) and Collection Support function (CSf) managers GS-9 and above.

[5.1] 11.9.1 (05-27-1999)

Taxpayer Contact

1. When the taxpayer is contacted, set a specific date for filing. Secure sufficient information so that an accurate return can be prepared if the taxpayer fails to file by the specified date.
Example:
 - A. Total wages, number of employees, and tax withheld for each delinquent return (Forms 941, 942 and 943).
 - B. Name of states in which wages were paid (Form 940).
 - C. Number of partners in the partnership, their names, addresses and social security numbers (Form 1065).
 - D. Type of truck, number of axles, gross weight of vehicle and tax due (Form 2290).
2. Advise taxpayers who are personally contacted that failure to file by the specified date will be considered a refusal to file. This could subject the taxpayer to a fine, criminal penalties, or both, under IRC 7203.
3. Explain the trust fund recovery penalty, if applicable.
4. If collection of the tax on a delinquent return appears to be in jeopardy, follow the procedures for prompt and jeopardy (IRM 5.1, Chapter 4) assessments.
5. If the taxpayer is in a receivership or probate proceeding, follow the procedures for quick assessments in IRM 5.1, Chapter 4.
6. A summons is not required before using IRC 6020(b) authority. In some cases a summons may be necessary to establish the amount of the liability, see IRM 109.1 Summons Handbook for guidelines.
7. A field call is required before using IRC 6020(b) authority.
8. If the taxpayer fails to file employment, excise and partnership tax returns by the specified date, prepare the returns under the authority of IRC 6020(b).

[5.1] 11.9.2 (05-27-1999)

Preparation and Approval of Returns

1. Use Form 5604, Section IRC 6020(b) Action Sheet to prepare returns under the authority of IRC 6020(b).
2. Include a complete explanation of the basis for the

- assessment in Section 1 of Form 5604. Use information from the taxpayer such as wages paid, income tax withheld and FTDs to establish the correct liability.
3. Use the taxpayer's records or other reliable sources to determine the amount of wages paid, the amount of income tax and FICA tax withheld, and other necessary information. Use the following to prepare Forms 940, 941, 942 and 943:
 - A. Compute daily wage information times 91 days.
 - B. Compute weekly wage information times 13 weeks.
 - C. Compute monthly wage information times 3 months.
 - D. Compute annual wage information by multiplying appropriate days, weeks and months times amount(s) provided.
 4. Use the following method of tax computation for preparing returns when actual wage amounts are not available.
 - A. Withholding is 20% of the wage amount, when the actual amount is not provided by the taxpayer.
 - B. FICA should reflect the correct rate for the applicable period.
 - C. Use the wage amount from the last period satisfied (LPS) adjusted by the inflation factor to compute wages for IRC 6020(b) returns. The inflation factor is a percentage (2.5%) applied against the wage amount from the LPS. To compute the inflation factor for a delinquent period, multiply 2.5% times the number of quarters between the TDI period and the last period satisfied (LPS). Then, add the inflation factor to the wage amount from the LPS. This total is the wages to be used on the IRC 6020(b) return.
 - D. The inflation factor is not applicable if the TDI module is BEFORE the LPS module data.
- EXAMPLE:
- Do not calculate the inflation factor if the LPS is 9203 and the delinquent period is 9112.
5. Prepare a return for the current tax period if that period becomes delinquent during the IRC 6020(b) process.
 6. Prepare the tax returns in sets. A completed set includes an original and one copy of each return for each tax period.
 7. Field Support Units, may at the option of local management, perform all phases of the IRC 6020(b) clerical and review process. This includes signing returns and submitting them for routine processing. If the taxpayer files a self-prepared return, forward it to the initiator with Form 5604.
 8. The Collection employee's manager will review Form 5604 and related documentation, including returns, for accuracy of computation and appropriateness of assessment.
 9. If the recommendation is approved the manager will sign Letters 1085(DO) or 1616 (DO).
 10. Mail to the taxpayer Letters 1085 (DO) or 1616(DO) with an original returns. Retain the copy of the tax return in the case file to use if the taxpayer does not sign or file self-prepared returns.

Appeals of Unagreed IRC 6020(b) Cases

1. If the taxpayer requests an appeals conference:
 - A. Forward the case to Appeals on Form 2973, Transmittal of Case to Appeals or Form 3210, Document Transmittal.
 - B. Establish a control at either the group level or in the Field Support Unit while the case is pending in Appeals.
2. If a Field Support Unit is notified of an appeal on a proposed IRC 6020(b) assessment, it will return its file to the initiator if a narrative is required to support the recommendation.
3. Input Transaction Code (TC) 597, closing code 63 to place the TDI in suspense while the taxpayer exercises the right of appeal.
4. The group manager or Field Support Unit manager will periodically follow up with Appeals concerning the status of the case.
5. When Form 5402, Appeals Transmittal Memorandum and Supporting Statement, is received from Appeals, follow the instructions on the form for disposition of the case.
6. Appeals will:
 - A. Sign the prepared return under the authority of IRC 6020(b).
 - B. Complete Form 5604, Section 3.
 - C. Process the return directly to the service center for assessment with Part 1 of Form 5604.

[5.1] 11.9.4 (05-27-1999)

Preparing Returns for Assessment

1. If the taxpayer fails to file by the specified date or has not returned the 6020(b) returns signed, process the returns for assessment under the authority of IRC 6020(b).
2. In all cases if payment of the proposed return is not received, follow procedures in Section 11.3 of this chapter.
3. Enter the following on the bottom of the return:
 - A. The statement --"This return was prepared and signed under the authority of Section 6020(b) of the Internal Revenue Code. Apply condition code 4."
 - B. The appropriate TC and closing code. See Section 11.3 of this chapter.
4. The failure to pay penalty on returns assessed under IRC 6020(b) begins on the 11th day after notice and demand. See Revenue Ruling 76-562, IRM 120.1, Penalty Handbook.

[5.1] 11.10.1 (05-27-1999)

Transaction Codes

1. One transaction code and closing code should be input for each MFT period. The TDI should be completed by entering the correct closing code in the transaction code box. Refer to exhibit 11-3 for a listing of closing & transaction codes.

2. Closing transactions should not be input for subsequent periods on the same type of tax if the earliest printed period on the TDI for each type of tax is closed by TC 591, 593, 595 or 596.

[5.1] 11.10.2 (05-27-1999)

TC 590 -- Not Required to File for this Period Only

1. TC 590 will satisfy a particular period. The requirement to file for subsequent periods will remain open.
2. TC 590 should also be used in the following situations:
 - A. Form 1120, U.S. Corporation Income Tax Return where a consolidated return was or will be filed by the parent corporation and the TDI taxpayer is a subsidiary (closing code 14).
 - B. To close TDIs under discretionary provisions of Policy Statement P-5-133. See Section 11.4 of this chapter for criteria.
 - C. To close TDIs for Form 1065 U.S. Partnership Return of Income where Revenue Procedure 84-35 applies to a partnership with 10 or fewer partners. Use closing code 52 and secure written managerial approval.

[5.1] 11.10.3 (05-27-1999)

TC 591 -- Final

1. When the taxpayer is no longer required to file a specific return complete the TC 591 block with the appropriate closing code for the earliest period on the TDI or IDRS for the appropriate types of tax.
2. TC 591 will cancel the taxpayer's filing requirement for the MFT checked, and stop returns from being mailed and delinquency checks from being made, if the ending period of the MFT is no more than one year away from the closing date of the TDI. If the ending period of the MFT is more than one year away, see Section 11.9.3(3) of this chapter.
3. To close out future delinquencies on those periods not appearing on IDRS at the time of closing the TDI, delete the filing requirements by checking the TC 016 block of the TDI and entering the appropriate MFT and FR codes, if the ending period of the MFT is more than one year away from the closing date of the TDI.
4. When closing an IMF TDI using TC 591, if the taxpayer is deceased, prominently mark the face of the TDI in red ink with "TC 540" . No other document preparation will be necessary.
5. If a TDI contains an open delinquent tax module for Form 11, Special Tax Return, use TC 591 (closing code 50) to close the module. The Bureau of Alcohol, Tobacco and Firearms has responsibility for resolving Form 11 tax returns delinquencies.

[5.1] 11.10.4 (05-27-1999)

TC 593 -- Unable to Locate

1. If you are unable to locate the taxpayer, use TC 593 closing code 57 for of the earliest period of each MFT on the TDI or IDRS.
2. Indicate in the case history all actions taken in attempting to locate the taxpayer. See Section 11.1 of this chapter for required and suggested actions.
3. In instances where collection personnel cannot contact an Exempt Organization responsible officer, the TDI will be closed using TC 593.

[5.1] 11.10.6 (05-27-1999)

TC 595 -- Referrals to Examination or EP/EO Divisions

1. Use TC 595 with closing code 57 on the earliest period on the TDI or IDRS for each MFT. Review the filing requirements and determine other types of tax to be closed.
2. Attach a copy of Form 3449 to the back of TDI. Indicate "Final" on any return submitted which is a final return.
3. In the event an erroneous referral is made, a terminal input request form should be prepared to input TC 592.

[5.1] 11.10.7 (05-27-1999)

TC 596 -- Referrals to Criminal Investigation

1. On Criminal Investigation referrals, hold a TDI in inventory pending notification of acceptance or rejection of the case by the Criminal Investigation Division.
2. Use TC 596 closing code 57 for the earliest period printed on the TDI or IDRS for each MFT when the Criminal Investigation Division has accepted the case for a subject criminal investigation.
3. Attach a copy of Form 2797, Referral Report of Potential Fraud Cases, to the back of the TDI.
4. Do not use TC 596 on BMF TDI's. Hold BMF TDI's until TC 914 is posted and a recall is received on a DTR.

[5.1] 11.10.8 (05-27-1999)

TC 597 -- Surveyed

1. TC 597 should only be used when prescribed in instructions issued by the National Office.
2. When directed, use TC 597 with closing code 57 on each tax period printed on the TDI and on any subsequent periods that are delinquent but not printed on the TDI.

[5.1] 11.10.9 (05-27-1999)

TC 598 -- Shelved

1. TC 598 should only be used when prescribed in IRM instructions or by direction from National Office.

[5.1] 11.10.10 (05-27-1999)

TC 599 -- Taxable/Nontaxable Return Secured

1. TC 599 with the correct closing code will be printed in the middle left margin of all secured returns, and will be used as an input document to IDRS. If documents such as W-2s or 1099s are attached, go directly above the documents to write TC 599 and closing code.
2. Check the TC 599 block of the TDI instead of entering a closing code.
3. For a return submitted for prompt assessment, enter TC 599 and the correct closing code on Form 4844 and route it for input.
4. Exempt organizations with gross receipts of \$25,000 or less for tax years on or after 12/31/82, or \$10,000 or less for tax years on or after 12/31/76, and the organization is not a private foundation and a Form 990, Return for Organization Exempt from Income Tax, will not be filed, the revenue officer should prepare a Form 990 with the taxpayer entity information and:
 - A. print "599cc71" on the return;
 - B. print "DUMMY RETURN" on top of the return;
 - C. check box indicating gross receipts not more than \$25,000 (or \$10,000 if before 1982);
 - D. not date stamp return; and
 - E. attach photocopy of the TDI (front) to the return.
5. If an unsigned return is received in the mail, attach to the return a copy of the signed correspondence transmitting the return.
6. When a final return is secured and TC 599 with a closing code is entered, the filing requirement must be deleted to prevent future return delinquencies. Generally, by entering TC 591 with the closing code 50 in the subsequent period, the filing requirement will turn off. Refer to Section 11.9.3 of this chapter.

[5.1] 11.10.11 (05-27-1999)

Recalls

1. Indicate information on the back of the TDI (Return Previously Filed or Statement of No Liability section) if microfilm or terminal inquiry shows that a satisfactory closing transaction code posted.
2. The "recall" box should also be used, and an appropriate history entry made, whenever command code TXMOD gives a response message of "No Data Available."

[5.1] 11.10.13 (05-27-1999)

Entity Changes

1. In working a TDI where you find there has been a change in the entity, a careful analysis of all facts should be made to ensure that the TDI is closed properly and that all delinquent returns have been filed under the appropriate TIN. If a new entity is being established, Form SS-4, Application for Employer Identification Number, should be prepared for issuance of a new number. The open filing

- requirements stated on the TDI should be closed by TC 591.
2. The bottom front portion of the TDI may be used in lieu of Form 2363, Master File Entity Change to make changes in the taxpayer's entity. Changes which can be made on the face of the TDI are as follows. All others require Form 2363.
 - A. TIN change -- only if entity is not changed
 - B. Name change -- only one entity is involved
 - C. Address, Location or ZIP code
 - D. Filing Requirements -- either changing or establishing.
 - E. Taxpayer Deceased -- Input of TC 540 for IMF deceased taxpayers.

[5.1] 11.11 (05-27-1999)

Delinquent Investigation Account Listing (DIAL)

1. The DIAL used by revenue officers and group managers is a paper inventory list of taxpayers in Integrated Data Retrieval System (IDRS) status 26 and status 03. It is used in those districts where the Integrated Collection System (ICS) or the Entity System has not been installed. It is produced once a month by the service centers to reflect the status of taxpayers' accounts assigned to the district and revenue officer as of its production date. It also identifies certain account characteristics such as overage, large dollar or those with CSED or ASED indicators.
2. Procedures for the group manager's use of the DIAL are found in the Group Manager's Handbook.
3. Exhibit 11-4 contains a copy of the DIAL format and explains the data printed on the DIAL.
4. The following sections highlight areas of emphasis and required action by revenue officers in response to the status of cases found on the DIAL.

[5.1] 11.11.1 (05-27-1999)

Matching Procedures

1. The DIAL will be used as a tool to identify discrepancies in the revenue officers' inventory of TDAs and TDIs.
2. At a minimum, a quarterly match of all TDIs and TDAs in your inventory will be done against the DIAL. The match will be done within time frames established by local management.
3. When doing the match the revenue officer will:
 - A. Identify module discrepancies. If there is a difference between the balance due on a TDA, (excluding any posting that may have occurred after the run date of the DIAL) research IDRS to identify the problem and take appropriate action to ensure the taxpayer's account is accurate in application of payments, debits and credits.
 - B. If a TDA in your possession is not listed on the DIAL, check IDRS to determine where it is T-signed. If the account is closed, but should be reactivated,

notify the service center to establish a module on IDRS using the IDRS command code CC/MFREQ. If the TDA is a NMF, request that your group manager call the Service Center Accounting Branch to verify the balance on the unit ledger card.

- C. If a TDI is in inventory but not listed on the DIAL, check IDRS to see if it is assigned to another function such as Examination (AIMS control), ASFR T-sign 8000, or any other employee. If the TDI is closed per IDRS, note "closed by TDI match" and close the TDI from inventory.
- D. Request a TDA or a TDI reissuance when a document cannot be located but is listed on the DIAL. Managerial approval is required to use this command code. Until the TDA or TDI is reissued, an IDRS/CFOL printout of the missing module(s) may be used.
- E. Request a TDA reissuance by inputting CCSTAUP to IDRS and requesting TDA status 26.
- F. Request a TDI replacement through IDRS by using the command code CCTDIAD.

[5.1] 11.11.2 (05-27-1999)

Collection Statute Expiration Date

1. The CSED appears next to TDA modules where there are less than sixty (60) weeks remaining in the statutory period for collection. It indicates those accounts which should be prioritized for resolution. The date is based on the earliest unexpired assessment date in the module. Review the date for accuracy since there may be an additional assessment subsequent to the original TC 150 date.
2. If the amount from the first unexpired date for assessment has been paid, and the liability exists from a subsequent assessment such as a TC 300, a request for an asterisk should be placed next to the CSED date on the next print of the DIAL. The IDRS command code CC CSEDR initiates the placement of the asterisk. Managerial approval is required for the input of CC CSEDR. CC CSEDR which are entered in error may be reversed using the same command code.

[5.1] 11.11.3 (05-27-1999)

Assessment Statute Expiration Date (ASED)

1. An asterisk will appear in the ASED column next to the first taxpayer module. This occurs when Notice 527, Assessment Statute Expiration Date, is issued for at least one delinquent module. The asterisk will stay on the DIAL for up to three months or until the next Notice 527 is issued. If an additional notice is not sent to the taxpayer subsequent to the first notice, the asterisk will disappear. This does not mean the ASED has disappeared or has been protected.
2. To assure ASEDs are protected, review trust fund TDAs on the DIAL based on the taxable period. For example, if the current ASED date which is about to expire is April 15, 1997 review all tax periods with a constructive filing

date of April 15, 1994 or before (taxable periods ending December 31, 1993 or earlier).

3. Following are definitions for the numbers which occur in the ASSED column of the DIAL:

- A. "0" appears when a trust fund TDA has been in status 26 for six months or more and indicators codes "1" , "2" , "3" , or "4" have not been input to IDRS. This indicator serves as an alert that a Trust Fund Recovery Penalty determination may not have been made as specified in procedures listed in the Handbook.
- B. "1" designates that the Trust Fund Penalty has been assessed.
- C. "2" designates that responsible persons could not be located.
- D. "3" designates that there is no collection potential from any responsible person.
- E. "4" designates that all trust fund amounts have been paid
- F. "5" designates that the trust fund penalty is not applicable

[5.1] 11.11.4 (05-27-1999)

Large Dollar Accounts

- 1. A "\$" appears by a taxpayer's name when there is an entity balance due at the time of the last quarterly analysis (cycle 13, 26, 39, and 52) exceeding \$100,000. The indicator will alert you to the higher priority this account should receive when working inventory and the management emphasis that will be placed in resolving this case.
- 2. Because the analysis is done only quarterly, the balance due may exceed \$100,000 before the DIAL is updated and the indicator appears. The timing of the analysis will also allow an indicator to remain on the DIAL for several cycles after the balance due may have fallen below \$100,000.

[5.1] 11.12 (05-27-1999)

Delinquency Check Programs

- 1. Effective March 12, 1997, activities previously known as Returns Compliance Programs (RCP), Information Gathering Projects (IGP), FedState projects and Compliance 2000 initiatives were consolidated into the Compliance Initiative Proposal (CIP).
- 2. The preparation, review and approval process of the CIP package is contained in Compliance Initiative Proposal (CIP) which will be issued as an IRM Handbook.

[5.1] 11.12.1 (05-27-1999)

Tax Liability of Entities and Individuals from Canada and Mexico

- 1. The Assistant Commissioner (International) has primary

- responsibility for ensuring United States tax compliance by Canadian and Mexican entities or individuals conducting business in the United States. However, district offices, especially those bordering Canada and Mexico, should be aware of the tax liabilities of these entities and individuals. The districts will:
- o answer inquires about possible tax liabilities
 - o report possible delinquencies to International
 - o secure requested information for International
2. When district personnel have information indicating that a Canadian or Mexican individual or entity may be liable for United States tax, follow the procedures below
- A. For Master File returns, check microfilm research files to determine whether the entity or individual has filed a return reporting the tax believed to be due. For Non-Master File returns, obtain filing information from the service center.
 - B. If a return has been filed, but not paid, the district will forward such information to the Assistant Commissioner (International), Attention: IN:C:P.
 - C. If no record of filing a return is found, prepare a Form 3449, Referral Report to Examination/Exempt Organization Division, and forward it to the Assistant Commissioner (International), Attention: IN:C:P.
3. The Assistant Commissioner (International) usually secures delinquent returns. However, if a delinquent return for income, employment, or excise taxes is received from a Canadian or Mexican individual or entity, forward it to the Philadelphia Service Center.

Chapter 12 -- Cases Requiring Special Handling

[5.1] 12.1 (06-17-1999)

Income Tax Assessed Against A Child

1. This chapter provides instructions and guidelines for working accounts on income tax assessed against a child, household or agricultural employees, taxpayers located in high assault risk areas, child support obligations, self-employment tax liabilities of Amish taxpayers, taxpayers entitled to installment billing, reopening Examination cases, insolvent financial institutions, foreign insurance company delinquent accounts, non-petitioning spouse cases, penalty adjustments, political activity cases, probation cases, combined annual wage reporting cases, cases with math or clerical errors, transaction to prevent offset-in, service of U.S. Tax Court subpoenas and backup withholding.
2. Any income tax assessed against a child, to the extent of the amount attributable to income included in the gross income of the child solely by reason of IRC 73(a), if not paid by the child shall be considered as having also been properly assessed against the parent. See IRC 6201(c) and

related regulations.

3. District Directors and Service Center Directors are not allowed to assess any amount of unpaid estimated tax required to be paid under IRC 6654 or 6655 assessments must be based on tax returns rather than estimates.

[5.1] 12.2 (06-17-1999)

Cases Involving Household or Agricultural Employees

1. In general, follow normal TDA processing to effect collection of the tax.

NOTE:

To help eliminate future delinquencies, individuals making personal contact with taxpayers should inform them of the provisions for voluntary withholding income tax from the wages of household and agricultural employees.

2. If taxpayers choose to request that their employers withhold tax from their wages:
 - A. assist them in preparing Form W-4, Employee's Withholding Allowance Certificate, and
 - B. furnish them with a copy of Circular E, Employer's Tax Guide for delivery with Form W-4 to the employer

[5.1] 12.5 (06-17-1999)

Child Support Obligation TDAs

1. IRC 6305 provides for the assessment and collection of certified Child Support Obligations (CSO) in the same manner, with the same powers and limits (such as CSED) as if the amount was a tax imposed by Subtitle C (Employment Taxes). The following exceptions apply to CSO TDAs:
 - A. Charge no interest or penalties, except for bad check penalties.
 - B. The following exemptions of IRC 6334(a) Property Exempt from Levy, do not apply: unemployment benefits and certain annuity and pension payments.
 - C. Do not levy upon salary, wages or other income of an individual being withheld by a garnishment pursuant to a judgement for the support of minor children.
 - D. Do not request waiver of a CSED. Instead, the child support agency must recertify the liability, which begins a new ten year period for collection.
 - E. Effective October 1, 1997, the Service may not assess a fee in addition to the certified amount (for example, a fee to cover expenses) when Section 6305 collection is used to recover overdue CSO.
2. To meet code requirements, the Service Center Accounting Branch will hold an account, in the case of a first assessment against an individual for a particular person(s), in Notice Status for 60 days after issuing notice and demand. Once issued, CSO TDAs are subject to immediate collection action by CFF.
3. See IRM 5.11, Notice of Levy Handbook.

4. If, after contact with the taxpayer, it is determined that there is an obvious error in the assessment or the taxpayer produces evidence that he/she paid the respective state after the assessment was made:
 1. Cease further collection action
 2. Contact the regional OCSE representative whose name and telephone number are listed on the certification, and if this does not resolve the problem, then
 3. Contact the state representative whose name and telephone number also appear on the certification
5. States are to certify only cases with good collection potential. Review all state information forwarded with the certification for maximum collection potential.
6. The revenue officer reporting a CSO TDA currently not collectible will schedule a mandatory follow-up at intervals of no less than two years unless the circumstances of a particular case indicate that such a review is unwarranted.
7. If an agreement is made for regular payments, handle the account as a NMF installment agreement.
8. If the account is transferred, the revenue officer will:
 1. Follow procedures for the transfer of NMF cases,
 2. Send a photocopy of the TDA and all related paperwork directly to the transferee office on Form 2650, TDA-TDI Transfer.

NOTE:

The receiving office will immediately start working the case using the photocopy of the TDA. Associate the TDA and the case file when they are received from the service center, and

3. Prepare a memorandum, to be routed through the district Disclosure Officer, notifying the regional OCSE official of the status of the case.

[5.1] 12.5.3 (06-17-1999)

Coordination With States on CSOs

1. If the state intervenes after the case has been certified to Collection, i.e., subsequent state court action, etc., the revenue officer should, if necessary, contact the OCSE Regional Representative, whose name and telephone number are shown on the certification.
2. Occasionally, the state may request information on a particular case. Such requests will be handled by the revenue officer to whom the TDA is assigned.

CAUTION:

Exercise care so that nothing more than CSO information is disclosed. All responses will be forwarded to the district Disclosure Officer for review and mailing.

3. After a CSO case has been in the revenue officer's inventory for 90 days, forward a brief narrative report outlining the present status to the state through the district Disclosure Officer. The revenue officer will provide his/her telephone number so the state can follow-up on cases. Districts will retain copies of these reports for possible regional or National Office review.

4. The revenue officer will prepare Form 5482, Record of Disclosure (Privacy Act of 1974), each time a report is sent to the state agency.

[5.1] 12.8 (06-17-1999)

Reopening Examination Cases

1. Treasury Regulation 301.6404-1 provides that the district director or the director of the regional service center may abate any assessment, or unpaid portion thereof, if:
 - A. the assessment is in excess of the correct tax liability,
 - B. the assessment is made subsequent to the expiration of the applicable period of limitations, or
 - C. the assessment has been erroneously or illegally made.
2. Directors should use their discretionary authority in determining whether tax assessments involving illegal tax protestors and taxpayers with a history of repeatedly ignoring statutory notices are to be reconsidered. Reconsideration will be based upon the facts and circumstances of the case.
3. When exercising this discretionary authority, Service employees should consider the need and opportunity to bring noncompliant taxpayers into compliance.
4. Abatement requests will not be considered if:
 - A. the assessment was made as a result of a closing agreement under Section 7121 of the Internal Revenue Code or in which the tax liability was compromised under Section 7122 of the Internal Revenue Code;
 - B. the assessment was made after final TEFRA administrative proceedings;
 - C. the assessment was made as a result of the taxpayer entering into agreement on Form 870-AD, Offer of Waiver of Restrictions on Assessments and Collection of Deficiency in Tax of Acceptance of Overpayment;
 - D. the assessment results from a final order of the United States Tax Court or other court.

[5.1] 12.8.1 (06-17-1999)

Correction Requests for Reconsideration of Deficiency Assessments

1. When a taxpayer states that a deficiency has been incorrectly assessed, advise the taxpayer that the request must be in writing. Except as noted in Section 12.8(4) in this chapter, abatement requests should be accepted for reconsideration if:
 - A. the taxpayer requests in writing that an assessment be abated based upon enclosed information which, if timely submitted, would have resulted in a change in the assessment;
 - B. the taxpayer files an original delinquent return after an assessment was made as a result of a return executed by the Service under Section 6020(b), Substitute for Return program (SFR);

- C. the Service made a computational or processing error in adjusting the tax.
2. If the taxpayer filed a return for the period in question, advise the taxpayer to include the following in their request:
 - A. a written request or amended return which identifies the prior examination issues(s) and the reason for the abatement requested;
 - B. the examination report (if available);
 - C. documents supporting their position;
 3. If the taxpayer never filed a return, request they file an original delinquent return. Review the taxpayer's substantiation and determine if sufficient to allow the Service to abate the previous assessment.
- NOTE:
See Exhibit 12-2 for Standard Information Paragraphs on what records should be supplied to support the adjustment.
4. For SFR assessments where an original return has now been secured, date stamp the original delinquent return. Verify that each return is complete (contains all schedules, is properly signed, etc.) and all income is reported per the prior examination report.
 5. Prepare a Form 3870, Request for Adjustment, identified as "Taxpayer's Request for Reconsideration of Deficiency Assessment" . A copy of the taxpayer's request for reconsideration and documentation should be attached to the form. Retain a copy of Form 3870 and all supporting documentation with the Collection case file.
 6. Secure payment of installment agreement for any deficiency not being reconsidered. Secure levy sources for future collection. Identify on the Form 3870 if a Federal Tax Lien has been filed. Suspend collection on the amount being reconsidered.
 7. For cases where it is not feasible to send all documentation with the request, advise the taxpayer they must present all substantiation at the time of field or office interview. Advise the taxpayer that failure to respond to or cooperate with the examiner will result in the case being returned to Collection for resumed collection action. No further consideration will then be given to the abatement request until the tax is paid in full.
 8. Forward the complete package with Form 3210, Document Transmittal, to the originating function:
 - A. local service center when any service center made the original assessment; or
 - B. local district (Examination) Chief, Planning and Special Programs when any district office made the original assessment.
 - C. local Appeals Office when any Appeals Office made the original assessment.
 9. Send Letter 2727(P) to the taxpayer to advise them where you sent the request. See Exhibit 12-4.
 10. Use Letter 2726(P) (Exhibit 12-3) to advise taxpayers whose requests are not reconsidered that their assessment will not be adjusted.

[5.1] 12.8.2 (06-17-1999)

Premature Assessments in Tax Court Cases

1. A notice account or TDA may be generated even though the taxpayer has a timely filed Tax Court petition. If the assessment is correct, pursue collection. If the assessment is premature, request abatement.
2. If the taxpayer maintains that the deficiency is still being considered by the Tax Court, contact the responsible Appeals office and determine if the assessment was made prematurely.
3. If the assessment is premature, request input of TC 470, CC90 and send the TDA or notice to closed files. Appeals is responsible for abating the premature assessment.
4. If the assessment is correct, pursue collection of the assessment only. Collection will not attempt to collect any deficiency which is still before the Tax Court.

[5.1] 12.8.2 (06-17-1999)

Premature Assessments in Tax Court Cases

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3. If the assessment is premature, request input of TC 470, CC90 and send the TDA or notice to closed files. Appeals is responsible for abating the premature assessment.
4. If the assessment is correct, pursue collection of the assessment only. Collection will not attempt to collect any deficiency which is still before the Tax Court.

[5.1] 12.11 (06-17-1999)

Non-Petitioning Spouse Cases

1. Separate Non Master File (NMF) TDAs will be issued when one spouse files a U.S. Tax Court petition on a joint return deficiency and the other spouse agrees or takes no appeal action.
2. Service Centers will:
 - A. notate TDAs and TDIs "Non-Petitioning Spouse" and "Petitioning Spouse"
 - B. notate on the TDAs and TDIs two districts, if two districts are involved
3. Revenue officers assigned these cases will contact any other district involved to determine if any collections have been made.
4. Collection of the corrected return liability from either spouse requires abatement of the remaining balance.

[5.1] 12.11.1 (06-17-1999)
Requesting Abatement

1. Adjustment documents for abatement requests on a non-petitioning spouse must include the following:
 - A. enter "N" after the taxpayer's social security number
 - B. request STAUP STATUS 89
 - C. request input of account into STATUS 12 when the abatement has been completed
 - D. attach a TXMOD from both spouse's accounts
 - E. attach IDRS COMPA showing that all tax, penalties and interest have been paid

[5.1] 12.11.2 (06-17-1999)
Additional Assessments

1. Additional assessments made as a result of a Tax Court decision may not be added to the non-petitioning spouse's account. Consult Counsel if questions arise regarding correct amounts to be collected if a split payment situation occurs.
2. Attach a copy of tax court decisions for all adjustments to Form 3870, Request for Adjustment.

[5.1] 12.12 (06-17-1999)
Penalty Adjustments

1. Adjusting penalties is the responsibility of District Office and ACS personnel for the following:
 - A. processing claims for abatement of penalties relating to TDAs in open or closed IDRS status
 - B. delinquent returns secured by the District Office or ACS call site and cases where taxpayers request a personal contact
 - C. abatement of penalty requests in the above categories received by a service center from a taxpayer (these requests will be forwarded to the District Office by the service center).

[5.1] 12.13 (06-17-1999)
Political Activity Case TDAs

1. Filing requirements for political organizations, committees and candidates for tax years beginning January 1, 1975, were established in Public Law 93-625 (see IRC 527).
2. Political entities subject to PL 93-625 must file Form 1120 POL, U.S Income Tax Return of Certain Political Organizations, only if taxable income is over \$100.

[5.1] 12.14 (06-17-1999)
Probation Cases

1. Following conviction for a criminal tax violation, the

taxpayer will be sentenced. The sentence may include probation with specific conditions to be met by the taxpayer during a specified time period.

2. It is the responsibility of the Chief, Collection function, to inform the Chief, Criminal Investigation function, of the extent of the taxpayer's compliance with the conditions of probation.
3. TDAs subject to conditions of probation are controlled by TC 910 and a "-T" freeze. These identifiers do not appear on the TDA, TC 910 appears only in the entity section of ACTRA. A "-T" freeze appears on SUMRY and TXMOD.
4. TDAs should be prominently marked "Probation Case."

If And Then

A probation case is identified A copy of the probation memorandum is not attached SPf will be contacted for the conditions and length of probation

If Then

There are questions concerning the handling of these cases SPf will be contacted
* After review, SPf will refer the matter to the Chief, Criminal Investigation function, for appropriate action.

If Then

The Revenue Officer will advise
The taxpayer does not comply with the conditions of probation SPf by memorandum, and provide a summary of the collection history and circumstances of non-compliance.

* Revenue Officers will report the method of disposition of Probation TDAs to SPf by memorandum. In addition, where a liability has not been fully satisfied 180 days prior to expiration of the probationary period, SPf must report to the Chief, Criminal Investigation function, payments made by the taxpayer and the extent and results of any collection action. In such cases, Revenue Officers will provide this information to SPf at least 195 days prior to the expiration of the probationary period.

* IRC 6103(h)(4) allows certain disclosures to a U.S. Probation Officer. Prior to any such disclosure, the extent of the disclosure, if any, will be coordinated with the District Disclosure Officer.

* Failure to comply with the terms of probation will be reported by the Chief, Criminal Investigation function, to district counsel or the U.S. Attorney.

[5.1] 12.15 (06-17-1999)

Combined Annual Wage Reporting (CAWR) Cases

1. After initial processing by IRS and Social Security, IRS matches data from Forms W-2 and Forms W-3, Transmittal of Income and Tax Statements, against wage and tax information reported on Forms 941, 942 and 943.
2. In the match, five fields are reconciled:
 - o FICA Wages

- o FICA Tips
 - o FICA Tax Withheld
 - o Federal Income Tax Withheld
 - o Total Wages, Tips and Other Compensation
3. If the match indicates the amount of tax on Forms 941, 942 or 943 was underreported and the discrepancy cannot be resolved, the underreported tax is assessed.

[5.1] 12.15.1 (06-17-1999)
Service Center Procedures

1. Up to two notices are mailed to the taxpayer before the tax is assessed.
2. If there is no response, or the discrepancy cannot be resolved, the tax is assessed.
3. Normal BMF notice routines and deferral criteria apply to CAWR assessments.

[5.1] 12.15.2 (06-17-1999)
Collection Field function Procedures

1. CAWR TDAs can be identified as follows:
 - A. Transaction Code (TC) 290
 - B. The 9th, 10th and 11th digits of the Document Locator Number (DLN) for the TC 290 range from 550 through 559.
NOTE:
This may not be the DLN printed on the TDA -- check IDRS
 - C. At least one notice will have been sent to the taxpayer before the assessment
2. If you need to review the information on Forms W-2 and W-3, they may be requested through the Wage Information Retrieval System (WIRS). See IRM 105.3, Locating Taxpayers Handbook. They may also be available in the CAWR file at the service center.

[5.1] 12.16 (06-17-1999)
Cases With Math or Clerical Errors

1. Returns filed with math or clerical errors are usually corrected at the service center before notice and TDA issuance. If a TDA is issued before the error is resolved, do not take collection action against the portion of the liability affected by the error.

[5.1] 12.16.1 (06-17-1999)
Appeal Period

1. The service center will input Freeze Code "G," which allows first notice issuance and then suspends the account for 12 cycles. The 12 cycle suspense is known as the appeal period.

If And Then
Taxpayer responds

within appeal period
Taxpayer does not respond within appeal period

Agrees with assessment
Notices and TDA issued

Notices and TDA issued

Taxpayer responds within appeal period

Service center will input TC 470, closing code (CC) 94, Claim Pending

Does not agree with assessment
Pending

[5.1] 12.16.2 (06-17-1999)
Claim Pending

1. TC 470, CC 94 extends the appeal period with Freeze Code "J."

If Taxpayer's claim is justified	And	Then Tax abated with TC 291 Tax abated with TC 291, There is a balance due not affected by the claim
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Taxpayer's claim is justified due not affected by the claim for remaining balance due

Taxpayer's claim is not justified	Tax abated with TC 291, case referred to Examination Division
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[5.1] 12.16.3 (06-17-1999)
Examination Referrals

1. Any existing credit is frozen while Examination works the case. Exception: Exempt organization returns.
2. Notices and TDA will be issued for any balance due not affected by the claim.

[5.1] 12.16.4 (06-17-1999)
Collection Suspended

1. Collection becomes involved when a taxpayer response is processed after the claim period. If this happens, the service center inputs TC 470, CC 94.
 - A. A Daily Transaction Record (DTR) will be issued.
 - B. Suspend collection action.
- NOTE:
The module will remain in TDA status.

[5.1] 12.16.5 (06-17-1999)
Collection Pursued

1. If immediate collection action is necessary,
 - A. Contact the service center unit identified by the TC 470, CC 94 control base on IDRS.
 - B. Find the amount affected by the claim and its status.
 - C. Do not pursue collection on the portion of the balance due affected by the claim.

[5.1] 12.17 (06-17-1999)

Transaction To Prevent Offset-In

1. Transaction Code (TC) 470, closing code (CC) 90 prevents the automatic offset of a credit balance on one module to a balance due on another module.
2. TC 470, CC 90 is used for abatements, adjustments and complicated payment tracers (see IRM 5.1, Chapter 15).
3. TC 470 is reversed by TC 472.

[5.1] 12.17.1 (06-17-1999)

Time Limit on Preventing Offset-In

1. The restriction on offset-in caused by TC 470, CC 90 automatically expires after 26 cycles (weeks) for modules in notice status.
2. There is no automatic reversal of the offset-in restriction for modules in TDA status.

[5.1] 12.17.2 (06-17-1999)

Suspended Status

1. The input of TC 470, CC 90 changes a module to Status 53 on IDRS.
2. Unless reversed sooner by TC 472, a module that was previously in TDA status will stay in Status 53 until resolved.
3. Unless reversed sooner by TC 472, a module that was previously in notice status will remain in Status 53 until resolved, even after the restriction on offset-in expires.

[5.1] 12.18 (06-17-1999)

Service of U.S. Tax Court Subpoenas

1. At the discretion of the district director, Internal Revenue Service employees may be called upon to serve subpoenas issued by the United States Tax Court.
2. The Clerk of the Tax Court will furnish the original of the subpoena to the office of Chief Counsel. Chief Counsel will forward the subpoena to the district in which the witness resides.
3. The district director will forward Tax Court subpoenas to be served by Collection employees to the Chief of the SPf. The letter or memorandum to the district director transmitting the subpoena for service will contain any special instructions that district counsel wishes communicated to the official serving the subpoenas, or to

- the witness.
4. Promptly assign Tax Court subpoenas using Form 2209, Miscellaneous Investigations.
 5. Service is accomplished by personally showing the witness the original subpoena and delivering a copy of the subpoena to the witness.
 6. The Collection employee will make a "Return on Service" on the original subpoena and acknowledge such return before a Service official authorized to administer oaths.
 7. After the copy of the subpoena has been properly served, the original will be forwarded through channels for transmittal to the Clerk of the Tax Court.

[5.1] 12.19 (06-17-1999)

Backups Withholding Processing for Collection Field function

1. Legislation passed in 1983 (Public Law 98-67) repealed mandatory withholding on interest and dividend income and substituted a new Backup Withholding (BWH) system.
2. The Collection portion of BWH will be activated during the regular return delinquency and balance due notice routines. Detroit Computing Center (DCC) identifies taxpayers for BWH consideration based on unreported or under reported interest and dividend income meeting criteria in LEM V.
3. DCC will monitor indicated taxpayers who meet the BWH criteria and will generate all unique BWH notices and reports.
4. IMF taxpayers who meet the criteria for BWH will be identified during the:
 - o Examination tax adjustment processing (starting Tax Year (TY) 1984 in September 1985)
 - o Stop-filer return delinquency check (starting with TY 1984 in February 1986)
 - o Non-filer return delinquency check (starting with TY 1984 in July 1986)
 - o CP 2000, Proposed Change to Income or Withholding Tax, under reporter program (starting with TY 1984 in August 1986).
5. The IRS will mail at least four notices to potential BWH status taxpayers over a period of at least 120 days. If the taxpayer fails to satisfy the under reporting condition, BWH applies.
6. Simultaneously with the final BWH notice (CPs 539/541), notices are sent to the payers (e.g., banks, savings and loans, or corporations) advising them to begin BWH 30 days after receiving the notice at a 30% rate on reportable payments.
7. The CP 2000 notices, Forms 1902-X (Report of Individual Income Tax Audit Change), forms 4549 (Income Tax Examination Change), and resulting BWH-related first Master File notices will incorporate a BWH notification. Forms 8176 (Return Delinquency Notice), Forms 8125/8126 (Balance Due IDRS First, Second, and Third Notice Form/Balanced Due Final Notice Form) and their Spanish (SP) versions will be used for routine return delinquency and IDRS balance due notice output and will include a

identify all tax modules where
the taxpayer may be liable for
An employee determines BWH BWH and decide if BWH should be
should be discontinued discontinued for each module.

BWH cannot be released if a
taxpayer cannot satisfy all
modules subject to BWH.

* In potential status, BWH is satisfied when:

- A. The collection statute expires
- B. A balance due module goes into status 12
- C. A full paid delinquent return posts causing the module to go into status 10 or 12 and the interest and dividend income ins equal to or greater than Information Return Program (IRP) data
- D. TCs 590, 591, or 596 post
- E. An Unreversed TC 540 posts for a deceased taxpayer
- F. TC 922 with process codes 82 or 87 posts
- G. Prior status 02 on a Substitute for Return (SFR) taxpayer and subsequent TC 290-0 post; or
- H. A manual stop transaction posts (this action can be reversed)

* Taxpayers may request BWH be discontinued if

- A. No under reporting existed (e.g., full abatement, TC 590/591 posts, or credit transfer)
- B. The under reporting has been corrected, including the payment of any tax, penalty, or interest due (If the taxpayer is in subject status (BWI-2), this relief is not available. The taxpayer must remain on BWH until the annual analysis)
- C. BWH will or is causing a hardship and it is unlikely that the taxpayer will underreport again; or
- D. A bona fide dispute exists as to whether any under reporting has occurred (e.g., reopened audit, tax court issue, etc.)

* Granting an installment agreement or reporting an account as currently not collectible are not sufficient bases to discontinue BWH. This should be explained to a taxpayer potentially subject to BWH when the account is being reported as currently not collectible, or when an installment agreement is being granted.

* For BWH purposes, a hardship may be caused when the taxpayer has limited other income (i.e., Social Security, pension, and earned income) and limited interest and dividend income which is needed to meet necessary living expenses (e.g., senior citizens on a limited, fixed income, taxpayers dealing with a catastrophic illness and related expensive unreimbursed medical expenses or where the taxpayer cannot pay immediately, but backup withholding at the 30% rate would cause significant over-withholding).

* If a taxpayer claims a hardship exists, the employee must secure a CIS for review if the taxpayer owes more than the criteria in LEM V.

* If a taxpayer protests a denial of the request to stop BWH, the taxpayer will be offered an opportunity to meet with the

group manager. The taxpayer should also be advised that he or she may file a Form 911, Application for Taxpayer Assistance Order to Receive Hardship. (See IRM 5.1, General Handbook.)

- * TDAs or TDIs may be received on taxpayers still in potential status (BWI-1). See Attachments 1 and 2 for the BWH Notice Flow Charts and their relationship to the TDA and TDI streams.
- * If a taxpayer's request is denied and the BWH status is satisfied (BWI-4) due to a manual stop, complete a Form 8404 to re-start the BWH notice stream and forward the form to SCCB. Form 8404 is used to start or stop BWH. The condition of satisfied due to a manual stop can be identified by the BWI-indicator being 4 and the BWNC-indicator 1, 2, 3 or 4.

If	Then
A taxpayer's request to stop BWH is granted	Complete a Form 8408 and forward it to SCCB for input. Completion instructions are on the reverse of the form

- * Both individuals of the taxpayer's entity may be considered separately for determining whether BWH should be stopped, except for requests granted in BWH potential status which always affect both SSNs in the entity (the system cannot separate this processing).
- * Requests from taxpayers subject to BWH may be granted on a primary or secondary SSN, or jointly. This situation could arise when the BWH taxpayers are no longer married or are filing separately, or when "Innocent Spouse" provisions apply.
- * Time reporting for BWH activities will be charged to the operational code for the activity which generated the taxpayer contact, e.g., TDA or TDI.

Exhibit [5.1] 12-1 (06-17-1999)
Pattern Letter P-295
(Reference: IRM 5.1.12.6)

-

(DISTRICT OFFICE LETTERHEAD)

(Name and address of taxpayer)

Contact Telephone Number:

[Insert appropriate salutation]

Federal tax law exempts members of certain religious sects or divisions from paying self-employment tax if they file an application on Form 4029.

We understand you may be eligible for exemption, but we have no record of receiving a Form 4029 from you. If you want to apply for exemption from self-employment tax, please complete the enclosed Form 4029 and return it, with the copy of this letter, by the date shown below. An addressed envelope is enclosed for your convenience.

If we do not receive your application by the date shown, we will have to collect the self-employment tax.

If you have any questions, please contact me at the telephone number shown above.

Thank you for your cooperation.

Sincerely yours,

[Space for signature]

Revenue Officer

Enclosures:
Form 4029
Copy of this letter
Envelope

Last day for filing Form 4029:

Exhibit [5.1] 12-2 (06-17-1999)
Standard Information Paragraphs
(Reference: 5.1.12.8.1)

-

FILING STATUS (MARRIED FILING SEPARATE RETURN)

Copy of your spouse's 19-- Federal Income Tax Return. If you cannot get a copy of the return, please furnish your spouse's full name, current address, and Social Security Number.

FILING STATUS (HEAD OF HOUSEHOLD)

1. Copy of Divorce decree or separation agreement, if you were divorced or legally separated.
Cancelled checks and receipts for the qualifying
2. relative's expenses such as taxes, interest, rent, utilities, repairs, insurance, food, clothing and other personal expenses.
Records to show who paid or contributed toward the
3. payment of the expenses and the amount contributed by each person involved.
4. Amounts received from governmental agencies such as food stamps or rent subsidies.
School records, driver's license, statement from
5. qualifying relative, etc., to verify his or her place of residence.

DEPENDENT WHO LIVES WITH YOU

1. School, medical, or other records to determine dependent's place of residence.
A record of income or other funds received by or for the
2. dependent, including but not limited to social assistance, Social Security, V.A. benefits, and child support. Show how these funds were used.
A record of the amounts contributed to household
3. expenses by each person living in the household with the dependent.
4. A copy of the dependent's income tax return if one was filed.
5. A copy of the birth certificate for each dependent claimed.
6. A record of the Social Security Number for each dependent 1 year of age or older.
7. A record of the funds spent for the dependent's support

from all sources.

A copy of your divorce decree or separate maintenance agreement, if you were divorced or legally separated

8. from the dependent's other parent, and any written agreement showing which parent will have custody and/or claim the dependency exemption.

OTHER DEPENDENTS

A computation of the total cost of the dependent's support including the amount of income or other funds

1. received by or for the dependent. Show how these funds were used and the amounts contributed to household expenses by each person living in the household with the dependent.

The name, address, and phone number of any person or agency (including but not limited to Social Security

2. Adm., Social Services, Veterans Adm.,) that provided funds for the dependent's support and a statement from the person or agency, showing the amount provided. Cancelled checks and receipts to verify amounts you spent for the dependent's support, if the dependent did not live with you, if possible, provide a signed
3. statement from each person with whom the dependent lived, confirming that the person did not claim an exemption for the dependent and that you furnished more than half of the dependent's total support.

A copy of your divorce decree or separate maintenance agreement, if you were divorced or legally separated

4. from the dependent's other parent, and any written agreement stating which parent will have custody and/or claim the dependency exemption.

For Tax Year 1985 and later, a Form 8332, Release of Claim to Exemption for Child of Divorced or Separated Parents, or similar statement, signed by the custodial

5. parent agreeing not to claim an exemption for the child, or similar statement. Or Copy of the following pages from the decree or agreement is attached instead of Form 8332:

A. Cover page (with the other parent's social security number).

B. The page that states the non-custodial parent can claim the child as a dependent, and

C. Signature page showing the date of the agreement.

6. A record of the Social Security Number for dependents 1 year of age or older.

OTHER INCOME

1. Pensions, annuities, royalties, estate or trust income, non-employee compensation, etc.
2. For alimony received, a copy of divorce decree or separation agreement.
Bond interest, commissions, tips, winnings, prizes, awards, Schedule K-1 (Beneficiary's share of Income
3. Deductions, credits, etc.) income, scholarships, grants, disability income, property or goods received for

services, bartering proceeds, and any other income.
INCOME -- FORMS W2/1099
Because your return does not report the same income or deductions as those reported to the IRS by your payers or trustees, provide verification of all income received from the following sources:

1. Including, but not limited to, wages, salaries, tips, fees (copies of W-2's)
Including, but not limited to interest dividends
2. unemployment compensation, proceeds from bartering gambling winnings, contributions to IRS's (Copies of 1098's, 1099's, 5498's, W-2G's, etc.)

INDIVIDUAL RETIREMENT ARRANGEMENTS

Copy of the document(s) which establish your individual Retirement Arrangement (IRA) and cancelled checks

1. showing all contributions to the IRA for the year under examination. A statement provided by the trustee or custodian of your IRA which shows receipts, disbursements, and accumulated assets.
Documents showing the sources of any rollover
2. contributions to your IRA from a qualified pension or profit sharing plan or from another IRA, if applicable.

ALIMONY PAYMENTS

Copy of divorce decree, separate maintenance agreement

1. or other instructions that specify the basis for alimony payments.
2. Current name, address, and Social Security Number of divorced or separated spouse.
Cancelled checks or receipts to verify payments you
3. made. If alimony payments were not made directly by you, furnish documents showing source, i.e. insurance policy, endowment or annuity contract, etc.

SELF EMPLOYMENT HEALTH INSURANCE

If your spouse or you are an employee, statement from

1. all employers as to your eligibility to participate in your employer's health plan.
Proof that the self-employed plan provides
2. nondiscriminatory health insurance coverage to your employees.
3. Proof of the amount you paid for health insurance.

MEDICAL AND DENTAL EXPENSES

Cancelled checks, receipts or statement for all medical

1. and dental expenses, including medical insurance, showing the person for whom each expense was incurred, along with any insurance reimbursement records.
For prescription drug expenses, a statement or receipt
2. showing the prescription number, name of drug, cost and date purchased.
For other expenses, including transportation and
3. lodging, proof of payment and statement to show cost and medical requirement.
Medical insurance handbook or policy describing benefits
4. and reimbursement policy and verification of premium cost.

STATE AND LOCAL INCOME TAXES/STATE TAX REFUND

Copies of state, local and Federal tax returns for the years

19____ and 19____ , along with cancelled checks or receipts showing taxes paid.

REAL ESTATE AND PERSONAL PROPERTY TAXES

1. Verification of legal ownership of the property.
2. Cancelled checks, mortgage statements or receipts for taxes paid.
3. A copy of the settlement statement if real property was sold or purchased during the year.
4. Identification of any special assessments deducted as taxes, and an explanation of their purpose.

INTEREST EXPENSE

1. Receipts or statements from creditors showing amounts of interest paid and names of payees.
Payment books for installment purchases or purchase
2. contract and cancelled checks, receipts, or other evidence of payments made.
Interest receipts for mortgages, including land
3. contracts, and amortization schedules for outstanding loans.

CONTRIBUTIONS

1. Cancelled checks and receipts for contributions to churches or other organizations.
For contributions other than money, name and address of
2. the charitable organization; description of item(s) contributed; appraisal of the fair market value of each item on the contribution date; and original cost.
A statement showing you were an official representative of the organization and the organization's reimbursement
3. policy, if expenses were claimed for attending a convention or similar activity. Also, an itinerary or agenda for the activity.

CASUALTY AND THEFT LOSSES

Insured property: A copy of insurance report showing date and nature of loss or damage claimed, amount of
1(A) damage claimed; amount of coverage carried; and the date and amount of claim paid by insurance, or amount of claim pending.

- (B) Uninsured property: Fire or police department reports on losses from fire, theft or accidents.
2. Photographs showing extent of loss, if available.
Appraisal from a qualified estimator or adjuster showing
 3. fair market value of the property before and after casualty or an estimate of the damages.
 4. Verification of the cost or other basis of property and date acquired.
 5. Verification of actual cost of repairs.

MOVING EXPENSES

1. Cancelled checks and receipts verifying the amount of moving expenses you paid.

2. Names and relationship to you of members of your household who moved with you.
Computations showing number of miles by direct route
3. from your old residence to your new place of employment and to your old place of employment.
Name and address of each employer you had since you
4. moved to your new place of employment and period of time employed by each.
Statement from your employer of the allowances or reimbursement paid to you for moving expenses, showing
5. amounts by kind of expense, such as plane or train fares, meals and lodging, automobile expenses, transportation of household and person property, etc.
6. Closing statements on purchase and sale of personal residence. Copies of lease agreements where applicable.
7. Statement from employer as to whether reimbursement is included on W-2.

MISCELLANEOUS DEDUCTIONS

Please bring the items listed below that apply to deductions claimed on your tax return.

BUSINESS USE OF HOME

1. Statement from your employer if you are required to provide an office in your home or elsewhere.
2. Cancelled checks and receipts verifying expenses incurred.
3. Total dimensions of your home and dimensions of business space.
4. Documents to establish cost or other basis of home including value of land.

LEGAL, TAX, INVESTMENT COUNSEL FEES

Cancelled checks, receipts, and statements showing amount of payment and purpose of expenses.

JOB-HUNTING EXPENSES

Log or diary showing job-hunting activity, and cancelled

1. checks or receipts showing expenses paid for this activity, including payments to employment agencies.
2. Statement from your employer showing amount of reimbursement, if any.
3. Documents to establish type of job sought.

EDUCATION EXPENSES

Documents such as transcripts, course descriptions,

1. catalog, etc., showing period of enrollment in educational institution, principal subjects studied, and description of educational activity.
Cancelled checks and receipts to verify amounts you spent for tuition and books, meals and lodging while
2. away from home overnight for educational purposes, travel and transportation, and other educational expenses.

Statement(s) from your employer explaining whether the education was necessary for you to keep your job,

- salary, or status; how the education helped maintain or
- improve skills needed in your job; how much education expense reimbursement you received, identified by kind of expense; type of certificate and subjects taught, if a teacher.
 - Complete information about any scholarship or fellowship grants, including amounts you received during the year.

UNIFORMS, EQUIPMENT, AND TOOLS

- Explanation of how the expense related to your employment, and a description of the item.
Statement from your employer that the expense was required; a description of the reimbursement policy; and the amount reimbursed or allowance paid.
- Cancelled checks and receipts verifying the expense.

EMPLOYEE BUSINESS EXPENSE

- Statement from your employer showing reimbursement policy (or statement that there is no reimbursement policy); amount and kind of expense reimbursed, charged, or provided; specific expenses not covered by
- reimbursement policy; territory assigned to you; dates and locations of temporary jobs, and a brief outline of your duties. Your employer should also state whether or not reimbursement is included on your W-2 as Wages, Tips, or Other Compensation.
 - Copies of expense vouchers submitted to your employer.
 - Logs, diaries, or other records of expenses showing all expenses incurred.

AUTOMOBILE EXPENSES

- Repair receipts, inspection slips, or any other records showing total mileage for the year.
- Appointment book or calendar of your business activity during the year.
If actual expenses were claimed paid bills, invoices and cancelled checks for your automobile expenses including
- gas, oil, tires, repairs, insurance, interest, tags, taxes, parking fees, and tolls, and receipts and other records for local transportation expenses such as cabs, buses, subways, etc.
Bill of sale or other verification to establish the cost
- or other basis in vehicle, including the trade-in of another vehicle.

ENTERTAINMENT, GIFTS, AND THE EXPENSES

- Records and receipts for entertainment expenses you claimed. These records must have been made timely and
- must show the names and business relationship of the persons entertained, the purpose of the entertainment, the place where the entertainment occurred, the date of the entertainment, and the amount of the expenditure.
For entertainment facilities: records showing expenses
 - incurred, and total use of business use of the facility if it was maintained by you, in addition to the information requested in item 1.
For business gifts: records and receipts showing the

3. cost of the gifts you provided, the person to whom the gifts were made, and their business relationship.

TRAVEL, MEALS, AND LODGING EXPENSES

1. Transportation tickets, receipts, cancelled checks, etc., to substantiate the expenses claimed.
Verification of the number of days away from home
2. overnight for business purposes. Receipts and any other records for meals and actual lodging.
3. Brochures, activity schedules, agendas, etc., for all conventions, cruises or meetings.
4. Proof of how this travel was related to your business.

BAD DEBTS

1. Verification of the debt such as a note or contract that establishes a debtor-creditor relationship.
2. Full name and last known address of the debtor.
3. Evidence of your efforts to collect the debts.
4. Evidence of uncollectibility of the debt in the year claimed.

STOCK SALES

Brokerage vouchers, monthly statements and Forms 1099-B

1. (Proceeds From Broker and Barter Exchange Transactions), establishing the purchase price, sales price, and dates of transactions.
Records showing nontaxable distributions received during
2. the holding period if you sold securities on which you had return of capital or stock splits.
Verification of dissolution or liquidation and the
3. amount of the liquidating distribution, if you claim worthless securities.

SALES OF REAL AND PERSONAL PROPERTY

1. Bill of sale or closing settlement statement for purchase of property.
2. Verification of capital improvements to property, such as receipts, bills, contracts.
3. Records showing terms and expenses of sale, and copy of bill of sale or closing or settlement statement.
Copies of your income tax return for 2 years before the
4. year of sale, if the sale involved property that was held for business or rental purposes.
If the property was repossessed, a copy of your income
5. tax return for the year of the original sale, all contracts or legal documents involved, and verification of the repossession costs.

SALE OF PERSONAL RESIDENCE

1. Closing statements for the sale of the residence and for the cost of the residence when it was purchased.
2. Cancelled checks and receipts for improvements made to the residence that was sold.
Cancelled checks and receipts for fixing-up expenses

3. incurred within 90 days of selling your residence. These expenses must have been paid within 30 days after the sale.
4. Closing statement on purchase of the new residence, if you replaced the residence that was sold.
5. Copy of your income tax return for the last year the home was used for business before the sale.
6. Documentation of any casualty loss deduction previously claimed.
7. If the residence was converted to rental or business use, give the date of the conversion and the date it reverted back to personal use.
Provide copies of all Forms 2119 (Sale of Your Home)
8. from prior years to verify the adjusted basis of the residence sold.

RENTAL INCOME

1. Receipts, lease agreements and other records showing total amount of rent you received.
2. Explanation of the reason if units were occupied rent-free or below rental value during the year.
3. Total number of days the unit was rented and number of days the unit was used for personal purposes.
Evidence to verify ownership of the property, the date the property was acquired, the cost or other basis
4. showing the amount allocated to land and to buildings, and the cost of improvements and additions to the property. Include escrow papers and property tax bill for the year of purchase.
5. Date converted, if the property was converted from a personal residence to rental property.
Statement from real estate agent of the fair rental
6. value for similar properties in the same geographical area.

RENTAL EXPENSES

Cancelled checks and receipts to verify all rental expenses claimed.

DEPRECIATION OF RENTAL PROPERTY

Evidence to verify ownership of the property, the date

1. it was acquired, the cost or other basis showing the amount allocated to land and to the building(s), and the cost of improvements and additions to the property.
2. Schedule of depreciation computed for current and prior year.

GROSS RECEIPTS

1. All books, journals, ledgers and workpapers used to determine gross receipts.
All bank statements, cancelled checks and deposit slips,
2. both business and personal, savings and checking, for the 14 month period from December 19_____ through

January 19____ .

Records of all savings and invested funds for the year

3. (i.e. money market accounts, certificates of deposit, etc.).
Records of all other business and personal receipts such
4. as loans, insurance proceeds, inheritances, salaries, gifts, Social Security benefits, transfers between bank accounts, etc.
Purchase invoices or closing statements for acquisition
5. and disposition of capital items, business and personal. This includes real estate automobiles, machinery and equipment, etc.
6. A brief history of business operations.

GENERAL

All books, journals, ledgers and workpapers used to

1. prepare your Schedule C or F, organized by each income and expense item.
All bank statements and cancelled checks (both business
2. and personal savings and checking) for the 14 month period from December 19____ through January 19____ .
3. Records of all business and personal loan activity (loan liability ledger).

4. Records of all savings and other invested funds for the year.
Purchase invoices or closing statements covering
5. acquisitions and dispositions of capital items (business and personal). This includes real estate, automobiles, machinery and equipment, etc.
Information on any nontaxable receipts including but not
6. limited to Social Security benefits, gifts and inheritances.

ALL EXPENSES

1. Accounting records detailing the expenses deducted.
Cancelled checks and receipts to verify the expenses
2. claimed. These records should be organized into the same categories as shown on your Schedule C or F.
3. Copies of any payroll tax returns, information documents such as Forms 1099, and W2's filed for the tax year.
4. Invoices for any capital acquisitions during the tax years.

BAD DEBT FROM SALES OR SERVICES

1. Verification of debt such as a note or contract that establishes the debtor-creditor relationship.
2. Full name and last known address of the debtor.
3. Evidence of your efforts to collect the debt.
4. Evidence of your uncollectibility of the debt in the year claimed.
5. Evidence that the bad debt was previously included in income.

CAR AND TRUCK EXPENSES

1. Repairs receipts, inspection, slips, and any other records showing total mileage for the year.
2. Log books and other records to support the business mileage claimed.
3. Appointment book calendar of your business activities during the year.
If actual expenses were claimed paid bills, invoices and
4. cancelled checks for automobile expenses including gas, oil, tires, repairs, insurance, interest, tags, taxes, parking, tolls, etc.
Bill of sale or other verification to establish the cost
5. or other basis in the vehicle, including the trade-in of another vehicle.

COMMISSIONS COST OF LABOR, CONTRACT LABOR

1. Copies of all Forms 1099 for commissions paid.
Names, addresses and Social Security numbers of
2. individual recipients of commissions, if Forms 1099 were not issued.
3. Copies of contracts or other written agreements for contract labor.
4. Cancelled checks and all other records to verify amounts paid to each individual and on each contract.

COST OF GOODS SOLD

Physical inventory sheets for both beginning and ending

1. inventory for the year and copies of Federal Income tax returns for the year before and the year after the return being examined.
2. Cancelled checks, receipts, and purchase journal or summaries for goods purchased for resale.
Cancelled checks, receipts, journals, or summaries, and all other records for labor, materials and supplies, and
3. any other costs incurred to raise or produce goods for sale. Include all employment tax returns and records, if applicable.
Description and computation of the cost of inventory
4. items withdrawn for personal use. Include gifts to family and friends, items for personal consumption, etc.

COST OF LIVESTOCK OR OTHER ITEMS BOUGHT FOR RESALE

Physical inventory sheets for both beginning and ending

1. inventory for the year and copies of Federal income tax returns for the year and the year after the return being examined.
2. Cancelled checks, receipts and purchase journal or summaries for goods purchased for resale.
Description and computation of the cost of inventory
3. items withdrawn for personal use. Include gifts to family and friends, items for personal consumption, etc.

DEPRECIATION

1. Purchase invoices, settlement sheets, receipts and any other evidence to verify ownership of the assets.

2. A computation of how the depreciable basis was determined if different from the cost of the assets.
3. Records, log books, etc., showing total business and personal use of depreciable assets.

GAS, FUEL, AND OIL

1. Cancelled checks and receipts for gas, fuel, and oil expenses.
2. Documentation that the amount of the Gas Tax Credit claimed was also reported as income.

INSURANCE EXPENSES

1. All insurance policies for which you deducted premiums paid.
2. Cancelled checks, bills, or invoices for insurance expense paid or owed.

INTANGIBLE DRILLING COST AND DRY HOLE COST

Documents such as deed, letter of agreement, partnership

1. agreement, etc., showing date of acquisition, description of property, interest owned in property, consideration paid, and obligations assumed.
Verification that well has been drilled such as drilling contract, progress reports, statements, cancelled
2. checks, etc. If the well has been capped, a copy of the plugging report or other documentation that the well is non-productive.

INTEREST EXPENSE

Copies of loan agreements, payment information, and interest statements on loans in effect during the year.

MACHINE AND LABOR HIRE

1. Copies of all Forms 1099 for machine hire expenses paid.
If Forms 1099 were not issued to individuals who were
2. paid for machine work, provide names, addresses, and Social Security numbers of those individuals.
3. Cancelled checks, invoices, and any other records to verify the amounts paid.

OFFICE IN THE HOME

Statements from third parties, if applicable, that you

1. are required to provide an office in your home or elsewhere.
2. Cancelled checks or receipts verifying expenses incurred such as interest, taxes, insurance, and utilities.
3. Records to support cost basis for depreciation.
4. Verification of square footage of the home and total square footage in area used for business.

PENSION OR PROFIT SHARING PLANS

Cancelled checks and other documents verifying

1. establishment of and contributions to the plan for the year.
2. Copy of annual information return, if filed.

RENT EXPENSE

Copies of lease or rental agreement, cancelled checks, and

statements for rent paid or owed during the year.

SALARIES AND WAGES

Copies of Employment Tax Returns (Form 941 or 943), and

1. Form 940 to support your deduction for salaries and wages paid to your employees.
2. Copies of Forms W-4 for all your employees.
3. Copies of Forms W-2 and 1099 for all employees.
4. Copies of payment records, including cancelled checks, for salaries and wages paid.

TRAVEL, ENTERTAINMENT, MEALS, AND LODGING EXPENSES

Verification of the number of days away from home

1. overnight for business purposes. Include receipts or records for meals and actual lodging.
A log or diary for travel costs incurred while away from
2. home on business. This information should include transportation tickets, receipts, and cancelled checks.
Records and receipts for entertainment expenses you claimed. These records must show the name(s) and
3. business relationship of the person(s) entertained, purpose of the entertainment, place, date of the entertainment, and the amount of the expenditure.
For entertainment facilities, records showing expenses
4. incurred and the total use and business use of the facility, in addition to the information required in item 3 above.
Records and receipts showing the cost of business gifts,
5. persons to whom the business gifts were made, and their business relationship.

BUSINESS HISTORY

Copies of tax returns for the four preceding years (six years for activities involving horses) if you were engaged in the activity during those years. The law provides a presumption that you are engaged in an activity for profit only if you have in fact made a profit in two or more of five consecutive years (seven years for activities involving horses).

Please be prepared to discuss:

- a) Manner in which you carry on the activity.
- b) Expertise of you or your corporation.
- c) Expectations of the anticipated increase in value of business assets.
- d) Success in carrying on other activities.
- e) Elements of personal pleasure or recreation involved in carrying on the activity.

OTHER FILING REQUIREMENTS

Your audit will encompass all aspects of your tax filing requirements. We need to verify that timely returns are being filed for employment taxes and excise taxes, if liable.

Please furnish copies of all returns filed by you for the year being audited through the current year.

1. All Forms 940, 941, 942, 943, W-2, W-4, 1009 and other information documents, etc.
Names, addresses, and Social Security numbers of the
2. recipients of your payments for commissions, labor, wages, management fees, machine hire, services, etc., if

the above listed forms were not issued.

3. Cancelled checks or other records to verify the amount paid to each individual.
Copies of Forms 8300 (Report of Cash Payments Over \$10,000 Received in a Trade or Business) for cash payments in excess of \$10,000, if applicable.
4. All excise tax returns including Forms 2290, 720, 730, and 11.
6. Estimated Tax Form 1040-ES.

CREDIT FOR CHILD OR DEPENDENT CARE EXPENSES

A copy of the applicable divorce decree or separation

1. agreement, dates you had custody of the child, and dates the other parent had custody of the child.

A doctor's statement showing the dependent or mentally

2. unable to care for himself or herself, if the expenses were paid for disabled dependent.

Names and addresses of persons or organizations you paid for child care or for the care of a disabled dependent.

Copies of cancelled checks and receipts verifying the

3. expenditures. If you do not have cancelled checks, provide a statement from the person or organization showing the name, address, period of care and amount paid.

Copies of applicable Forms 940, 941, and 942 for

4. payments exceeding \$50.00 per quarter to workers in your home.

FOREIGN TAX CREDIT

Receipts or statements showing foreign source income and foreign source income and foreign income taxes paid or

1. withheld from your earnings. Indicate on each receipt the translations of the necessary words so that the following items are clear:

a) Type of foreign tax paid or accrued.

b) Date of payment or accrual.

c) Exchange rate used to convert foreign currency to

U.S. dollars, and

d) Amount of payment.

A complete copy of the tax return(s) filed with foreign

2. authorities covering the same periods as your U.S. tax return. Clearly indicate the tax liability and refund (or balance due) on the foreign return.

For foreign taxes paid or accrued relating to tax years

3. other than the one being examined, copies of your U.S. and foreign tax returns for those years.

A schedule showing how you computed the credit carryback

4. or carryover if applicable, and complete copies of Forms 1040 and 1116 for all years involved.

Chapter 14 -- Collection Field Function Techniques and Other Assignments

[5.1] 14.1 (10-20-2000)

Overview

1. This chapter contains procedures on:
 - o Collection of Taxes from Public Works Projects
 - o Transferee Liability and Fraudulent Conveyances
 - o Liability for Third Party Wages or Supplying Funds for Payment of Taxes

[5.1] 14.1.1 (05-27-1999)

Performance Bond Provisions of the Miller Act

1. Before a contract exceeding \$25,000 is awarded for construction, alteration, repair of any public building or public work of the United States, the prime contractor must furnish a performance bond for contracts guaranteeing that the work will be performed to completion. Refer to Section 270a of Title 40 of the United States Code (Miller Act).
2. The provisions of the Miller Act apply only to taxes collected, deducted, or withheld from wages paid by the prime contractor and are not applicable to subcontractors.

[5.1] 14.1.2 (05-27-1999)

Procedures for Holding Surety Liable for Unpaid Withholding Taxes

1. The Revenue Officer will take the following actions for taxes owed:

<p>If the prime contractor... did work on a number of projects during the taxable period and there's no breakdown by contract is still due funds under the contract</p>	<p>Then ... Estimate taxes by determining the percentage of payroll for each contract in relation to the total a.payroll or based on available records and affidavits from officers or responsible persons having knowledge of the facts. Limit time liability of the surety to the amount collected, deducted, or withheld (or b.required to be) from wages paid by the contractor and interest, penalty or other additions thereto as may be applicable. Include the employee's portion of c.social security taxes as well as income tax. a.Levy Consider giving notice to the b.surety for the purpose of holding the surety liable under the Miller Act because of: Limited time in which notice can [bullet image] be given to the surety (within 90</p>
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days after the return is filed). Results of the levy action will usually not be [bullet image] known within the period for giving notice to the surety.

Owes taxes To hold the surety liable the surety must receive notice (Exhibit Pattern Letter P-304) within 90 days after the return is filed (or 180 days from the due date of return) identifying each period of liability.

* When it is determined the surety is liable for unpaid withholding taxes:

A. Prepare a recommendation and include the following information:

- o Name and address of taxpayer who is principal on the performance bond
- o Tax identification data (tax period, type, assessment date, amount, etc.)
- o Brief description of the project and location
- o Contract data (contract number, date, price, amount outstanding, contracting Government agency, name and address of the contracting officer, etc.);
- o Name and address of surety or sureties, penal sum of bond and date bond executed
- o Proposed liability of surety (show each period separately);
- o Basis of computation, such as taxpayer's records, taxpayer's statement, etc.
- o Date and status of levy when levy has been initiated by the revenue officer.
- o Summary of actions taken to collect the liability from the taxpayer.

B. Forward recommendation through the group manager to Special Procedures.

C. Continue collection action against the taxpayer.

D. Take the following actions when payment(s) received after submission of the recommendation:

1. Apply to the portion of the tax liabilities to which the Miller Act provisions are not applicable or to non-trust fund taxes.
2. Promptly notify Special Procedures since this will affect the surety's liability.

* Special Procedures will expedite review of the revenue officer's recommendations.

If recommendation	
is...	Then SPf will...
Not approved	Advise the revenue officer of the reason.
Approved	Prepare the notice to the surety in

quadruplicate and:
Mail original by
[bullet image] certified mail or deliver
if necessary

[bullet image] Forward a copy to the
taxpayer
Forward a copy to the
[bullet image] revenue officer for
notification of the
action taken.

* The revenue officer will take the following actions when the
surety period to comply has expired:

- A. Determine whether to recommend suit for failure to comply
with the terms of the performance bond at least 4 months
before the end of the one-year period from the date notice
was given to the surety.
- B. Include the basic data with the suit recommendation,
together with copies (in triplicate) of the performance
bond, the letter to the surety requesting payment and any
other related documents.
- C. Notify district counsel promptly of any credit or
abatment to the tax that will affect the surety's
liability after the recommendation has been referred for
suit.

NOTE:

Do not take summary enforcement action against the surety.

[5.1] 14.2 (05-27-1999)

Transferee Liability and Fraudulent Conveyances

1. This Section deals with the ability of the United States
to reach assets which may be disposed of by the taxpayer
prior to assessment and which are not subject to the
Federal tax lien.
2. Section 800 of IRM 57(16)0, Legal Reference Guide for
Revenue Officers, contains detailed information on
recognizing whether a fraudulent conveyance and transferee
liability may exist and the recourse available to the
United States in such situations.
3. There are three principal methods by which the United
States may proceed where assets have been transferred in
fraud of creditors.
 - A. Setting aside fraudulent conveyances.
 - B. Transferee liability by civil law suit.
 - C. Transferee liability by notice of deficiency.
4. Of the above methods, assessments which can be obtained
through notice of deficiency should be looked to first.

[5.1] 14.2.1 (05-27-1999)

Report of Investigation of Transferee Liability

1. The government's case will be based primarily on the facts
developed and reported by the revenue officer. It is

- essential that the investigation be carefully and thoroughly conducted and the revenue officer's report be as complete and detailed as possible.
2. The revenue officer will prepare Form 3031, Report of Investigation of Transferee Liability in triplicate and complete the following:
 - A. Attach schedules and explanatory and descriptive statements necessary for a clear and complete presentation of the facts.
 - B. Attach documentary evidence beginning with the year of transferor's liability of any nature which the revenue officer is able to secure in support of the determination of transferee liability.
 - C. Forward Form 3031 with attachments to the Group Manager.
 3. The Group Manager will:
 - examine the report of investigation to ensure that it is complete and at a proper basis exists for assertion of the transferee liability.
 4. Upon agreement with the recommendation, the Group Manager will:
 - A. Sign and forward original, with attachments, by memorandum to the Chief, Planning and Special Programs in the Examination function.
 - B. Retain a copy.
 - C. Associate a copy with the transferor TDA.

[5.1] 14.2.2 (05-27-1999)

Revenue Officer as Coordinator of the Collection Activity

1. The revenue officer who initiated the assertion of the transferee assessment, or is assigned multiple transferee assessments initiated by Examination or sustained by Appeals, will act as coordinator of the collection activity.
2. Multiple transferee assessments initiated by Examination or sustained by Appeals will be identified by the notation "Transferee liability exceeds transferor liability" on the face of the TDAs.
3. The revenue officer acting as coordinator (transferor revenue officer) will:
 - A. Effect any required TDA transfer.
 - B. Notify the holders of other related TDAs of credits to be considered in further collection of the assessed liability upon receipt of the information.
 - C. Suspend collection in the event the total of payments received from all related TDAs equal the total assessed liability.

[5.1] 14.2.3 (05-27-1999)

Transferee Revenue Officer Procedures

1. The revenue officer receiving a transferee assessment TDA will proceed with all normal collection procedures.
2. Notify the coordinating (transferor) revenue officer of

the following:

- A. Receipt of full payment of the assessed liability by memorandum, stating the date paid and the amount paid.
- B. Summary of installment payments received, stating the dates and amounts paid.

NOTE:

A transcript of the account or photocopy of the TDA may be sent in lieu of a memorandum. This information will be furnished at 3-month intervals.

- C. Copy of Form 53, Report of Currently Not Collectible Taxes, when a module(s) is put into currently not collectible status.
- D. Claim for Refund or Refund Litigation

[5.1] 14.2.4 (05-27-1999)

Abatements and Refunds

1. When the total amount collected exceeds the amount of the transferor's liability, the excess amount may be refunded provided a claim for refund is filed within the applicable statutory period.

NOTE:

If payment is made by personal check, the abatement of any balance(s) of assessments will be held in abeyance until such check has cleared the bank on which drawn.

2. No abatement will be administratively made in those cases which are not involved in court proceedings unless the statutory period in which a refund claim may be brought has expired as to the transferee.

[5.1] 14.3 (10-20-2000)

Liability for Third Party Paying Wages or Supplying Funds Payment of Taxes

1. IRC 3505(a) applies to wages paid after January 1, 1967, and provides:
 - o Third parties who directly finance another's payrolls can be held liable for the full amount of taxes required to be withheld but not paid over to the Government
 - o Employers are not relieved of their responsibility to file required returns and related documents (such as Forms W-2). See LRG for a discussion of this subject.
2. IRC 3505(b) deals only with persons who supply funds to an employer for the purpose of paying wages when two conditions exist.
 - o The person must know that the funds advanced are to be used specifically for the payment of wages.
 - o The supplier of funds must have "actual notice or knowledge" at the time such funds are advanced that the employer does not intend to, or will not be able to make timely payment or deposit of the taxes required to be withheld.

3. Under IRC 3505(b) the liability of the third party may not exceed 25% of the amount supplied the employer for the specific purpose of paying wages. However, a supplier of funds is liable (subject to the 25% limitation) the same as a third party who pays wages directly. The 25% limitation includes any interest accrued on the unpaid taxes.
4. IRC 3505(c) provides that any amount paid to the United States pursuant to IRC 3505(a) and (b) shall be credited against the unpaid tax liability of the employer with respect to whose employees wages such amounts are due. However, employers are not relieved of their responsibility to file required returns and related documents (such as Forms W-2).
5. In order to collect from a third party under Section 3505 the United States must bring suit against the third party within ten years after the assessment of the tax against the employer.

[5.1] 14.3.1 (10-20-2000)

Establishing Liability and Applying Payments

1. Revenue officers will usually be notified that a third party is paying or providing wages or has paid or provided wages for an employer by receipt of Form 4219, Statement of Liability of Lender, Surety, or Other Person For Withholding Taxes.
2. In certain instances, revenue officers will be notified or otherwise informed that a third party is paying or providing wages or has paid or provided wages for an employer. Notification will usually be made by means of Form 4219, Statement of Liability of Lender, Surety, or Other Person for Withholding Taxes. Form 4219 may be received from the taxpayer or the third party. In other cases, Form 4219 will be sent directly to the service center. In such cases, Form 4219 will be received from the service center or from SPf.
3. Take the appropriate action below to secure Form 4219 or Form 941.

IF...	Then...
another type of notice or information is received instead of Form 4219	Send three copies of Form 4219 to <ol style="list-style-type: none"> a. the third party with a pre-addressed return envelope. b. duplicate) from the third party with voluntary payment: <ul style="list-style-type: none"> Prepare Form 3244, Payment Posting [bullet image] Voucher and credit to the employer's account. Retain the duplicate copy of Form 4219, until the tax

[bullet image] liability for the period(s) involved is fully paid or otherwise disposed of.

applicable Forms(s) 941 have not been filed [bullet image] Secure them from the employer of record. Attach the original [bullet image] Form 4219 to the 941 return.

the employer of record will not file the applicable Form(s) 941 [bullet image] prepare returns under authority of IRC 6020(b). Consider jeopardy assessment (if the criteria for jeopardy [bullet image] are met) prior to referral of the returns to the Audit Division.

* If the third party is accepting responsibility under IRC 3505(a) or IRC 3505(b) voluntary payments should equal the amount of withheld income tax and FICA required to be paid with Form 941. See Section 14.3(3) for the extent of the liability under IRC 3505(b).

NOTE:

The employer or record should be looked to for balances outstanding after the third party has voluntarily satisfied his/her responsibilities under 3505. In general, this would only apply to section 3505(b) liability where the amount due by the taxpayer exceeds the 25% limitation.

* When returns are filed without full payment, take the following actions:

- * Consider a jeopardy assessment if it meets the criteria for jeopardy.
- * If not, request a prompt assessment and upon receipt of the assessment notice, demand payment from the employer of record.

If payment is...	Then...
received	close the "Section 3505" file.
not received	first determine the collectibility of the account from the taxpayer/employer.
of the balance cannot be collected from the taxpayer/employer	ascertain the liability of the third party.

* Where the facts indicate a third party is liable for all or a portion of the withheld employment taxes, but the third party neglects or refuses to voluntarily pay the amount of the liability under IRC 3505, the revenue officer must develop the facts to support a recommendation for civil suit and forward

this recommendation to SPf.

* Facts which may support the liability of a third party under IRC 3505(a)1(b) include the following:

- A. A written agreement between the employer of record and a third party which states that wages are to be paid directly by the third party.
- B. Net wages paid by a third party as evidenced by:
 - o Canceled checks of the third party
 - o Bank records of the third party
 - o Cash disbursements recorded in payroll records of the third party
- C. Payroll records of the employer involved are maintained or controlled by the third party.
- D. Forms 941, W-2 and W-3 have been prepared, signed, or filed by the third party.

* Facts which support the liability of a third party under IRC 3505(b) are as follows:

- A. A written agreement between the employer of record and the third party that net wages will be supplied by the third party.
- B. Records of the third party showing disbursements by cash or check to the employer of record. Disbursements to the taxpayer/employer approximate in amounts to the wages subsequently paid to employees.
- C. Statements made by the taxpayer/employer and the third party indicate that the third party was aware of the amount of wages paid each payroll period, and the parties understood that the third party would be supplying funds to the taxpayer to pay those wages.
- D. Items c. and d. of 14.3.1:(7).

[5.1] 14.3.2 (10-20-2000)

Special Procedures Actions

1. SPf will review and process suits to establish the liability of third parties paying or providing wages or supplying funds under IRC 3505 as provided in the Litigation and Judgement Handbook.
2. Periodically SPf will receive from the SCCB Form 4219, Statement of Liability of Lender, Surety or Other Person for Withholding Taxes, that were mailed directly to the Service Center.

If there is...	Then...
a case assigned to a revenue officer	SPf will forward the form to that revenue officer.
no open case	SPf may, at their discretion, forward Form 4219 to the Chief, Collection Field function to be used as a RCP lead.

[5.1] 15.6 (07-30-1999)

False Refund Claim Cases

1. Per IRC 6201(a)(3), overstated prepayment credits are assessed in the same manner as mathematical or clerical errors, except the taxpayer may not request abatement under IRC 6213(b)(2).
2. In cases where the Form W-2 appears to be a fraudulent, contrived document, the taxpayer may be criminally prosecuted.
3. A case with overstated prepayment credits is known as a false refund claim case. False refund claim cases are identified by the following TDA issuance codes:
 - o N -- False refund claim TDA
 - o TRSF-N -- False refund claim TDA transferred from another office
 - o 914-N -- False refund claim TDA where Criminal Investigation is involved with another module in the account.
4. False refund claim cases are assigned directly to the Collection Field function.

[5.1] 15.6.1 (07-30-1999)

General Procedures

1. Because of the potential impact on compliance, false refund claim cases are a priority. Except for 914-N coded cases, the revenue officer should immediately attempt personal contact with the taxpayer.
2. False refund claim cases are exempt from the tolerance provisions of IRM 105.1, Collecting Contact Handbook. Take enforcement action as appropriate to collect the assessment plus accruals.

[5.1] 15.6.2 (07-30-1999)

Procedures for 914-N Coded Cases

1. Before contacting the taxpayer, contact Criminal Investigation through the Special Procedures function.
2. If the case involves a potentially dangerous taxpayer (see IRM 5.1, General Handbook), it may be necessary for a special agent to accompany the revenue officer when contacting the taxpayer

[5.1] 15.7 (07-20-2000)

Requests for Manual Refunds

1. Manual refunds, when no tax liability exists and no debt is being collected for past due child support or debts owed to other federal agencies as provided under IRC 6402 (c) or (d), should be requested upon the original filing of a tax return when hardship exists. Similarly, if a levy action is correctly taken and without our knowledge, full payment is simultaneously mailed by the taxpayer, a manual refund will be initiated only for hardship cases. Hardship

is defined as imminent bankruptcy, failure to meet payroll or other situations of similar magnitude. Hardship is NOT based on the importance of the taxpayer, the amount of the refund or the taxpayer's desire to avoid further interest payments. Refer to Section 2 of IRM 5.11, Notice of Levy Handbook for additional guidance resulting from the Taxpayer Bill of Rights 2.

[5.1] 15.7.1 (07-30-1999)
Procedures

1. Once it is determined that a manual refund is appropriate, forward the request to your manager, including a copy of the portion of the case file justifying manual refund processing; (e.g. levy form, history sheet, taxpayer correspondence.) Include all information specified in Exhibit 15-3.
2. Counsel has determined that in rare instances, when extreme hardship exists, refunds may be manually issued upon the filing of a tax return and prior to assessment of that return even if a tax liability is owed. The exception is when there is a debtor masterfile account to be collected. Counsel has also determined that under these circumstances, any IRS employee may request the issuance of the refund. These refunds are called Offset Bypass Refunds (OBR). (Refer to IRM 3.15, Adjustments).
3. Provisions of IRC 6402 (c) or (d) require the service to offset a debt for child support or debt owed to a federal agency under certain agreements. When these debtor masterfile accounts exist and there is a tax liability outstanding, the code requires that excess credits be applied to tax debt first, then to the child support obligation or federal agency debt. Any amount of the excess credit may be refunded to the taxpayer under hardship provisions after all tax and debtor masterfile accounts have been paid.
4. Refunds should not be issued when certain freeze codes exist. Verify with the controlling function that the following freezes are in effect or may be bypassed:
 - A. "-Z" or "Z-" freeze, (Criminal Investigation function).
 - B. "V" freeze, (Bankruptcy--Special Procedures function).
 - C. "-U" freeze (Erroneous Refund--TC 844).
 - D. "-Q" freeze (Unallowable Hold--TC 574, do not include the TC 576 amount in the refund).
 - E. The statute for refund has expired.
 - F. Invalid social security number (SSN) condition.
5. Other indications that extreme care should be used in recommending that a refund be issued are tax protestor designation, nonfiler status, litigation pending, and case history indicating assets, resources or income and financial status that may be available to avoid the hardship.
6. The revenue officer will ensure the return is complete. This means the return includes the following:
 - o all schedules appropriate to the return

- o documents for verification of taxable income and credits claimed such as Forms W-2 and 1099
 - o completed line entries
 - o calculations on the forms
 - o signatures
7. Do IDRS or MFTRA research to verify estimated tax credits or carry-over credits that are claimed.
 8. If there is an open TDA, the revenue officer will evaluate the financial statement, Form 433A and make a determination based on the information, that the taxpayer has an emergency and no other means of recovery is available.
 9. If the TDA is not assigned to the revenue officer making the refund determination, contact the individual or unit assigned the TDA for information and a recommendation of the appropriate action.
 10. For transmittal and managerial approval for manually refunded OBRs, follow instructions in Exhibit 15-3 for the memorandum, but eliminating items 6 and 10. Attach to the package a copy of the 433A if available, a copy of the return, IDRS or CFOL research confirming credits and any documentation of the condition causing extreme hardship.
 11. Attached to the package will be a request for terminal input of TC 971 VV FRM77 Action Code (AC) 36, IRS Offset Bypass Refund.
 12. If the request for refund is rejected, immediately request input of TC 972 AC 36 to reverse the identification of the type of manual refund.

[5.1] 15.7.2 (07-30-1999)

Instructions for Managers

1. Managers are responsible for ensuring good judgement in this matter. If manual refund processing is being recommended, the approving manager will complete Form 5792, Request for IDRS Generated Refund, and forward Form 5792 along with information justifying the manual refund to the CHIEF , Collection Division for signature. Form 3753, Manual Refund Posting Voucher, will be used for refunds over one million dollars and in wrongful levy situations.

[5.1] 15.8 (07-30-1999)

Certain Wrongful Levy Situations

1. These procedures apply only to situations where the Service levies on a bank account other than the taxpayer's or sells property which does not belong to the taxpayer. Hardship is not a factor in these two situations. Additional wrongful levy refund procedures may be found in IRM 5.10, Seizure and Sale Handbook. Also refer to Chapter 6 of IRM 5.11, Notice of Levy Handbook for new guidelines resulting from the Taxpayer Bill of Rights 2.
2. When a wrongful levy is identified, the authorized district representative will:
 - A. call the Austin Service Center (AUSC) Collection

function on 512-460-0505.

- B. inform AUSC Collection function that Form 3753, Manual Refund Posting Voucher and supporting documents will be faxed due to wrongful levy (AUSC Collection function FAX number is 512-460-0799).
3. The AUSC Collection function will notify the authorized district representative by telephone within one hour whether the Form 3753 and supporting documentation have been received.
4. The district office must send a follow-up, Part 1 only, of the Form 3753 with the original approving signature on it to the AUSC Collection function which will forward it to the AUSC Accounting function. This will not delay the FAXED refund when it comes to the service center but it is required so it can be associated with the FAXED copy in accounting. The mailing address is: Internal Revenue Service Center
Stop 5200 AUSC
P.O. Box 2986
Austin, Texas 78768
Attn: Carol Harper
5. The District Director is authorized to approve manual refunds in wrongful levy situations (unless the District Director has redelegated this authority). Each district must provide to the AUSC Collection and Accounting functions the names, phone numbers and original signatures of two individuals who have been authorized by the district to approve manual refunds. Mail this information to the above address.
6. The AUSC Collection function will verify, immediately upon receipt, that Form 3753 has been completed correctly. Discrepancies on Form 3753 should be corrected by telephone, if possible. Otherwise, the document will be rejected and the district will be notified by telephone of the action needed.
7. The AUSC Accounting Function will hand carry the refund request to the Regional Finance Center (RFC) no later than the next work day. The RFC will issue and mail the check to the taxpayer the following work day.
8. See IRM 5.11, Notice of Levy Handbook.

[5.1] 15.9.1 (03-15-2000)

Individual Master File (IMF) Automatic Refund Offset (Spousal Offset)

1. When an IMF taxpayer files a refund return,
 1. The Master File automatically recognizes whether the taxpayer owes for another module within the IMF.
 2. The refund is offset to pay the amount owed on the other module.
 3. The taxpayer is sent a notice which shows where the refund was applied.

EXAMPLE:

Richard and Mary Brown owe a joint IMF liability. A refund on an IMF return will be offset to pay this without a TC 130 if,

- A. Richard and Mary Brown file a joint return

- B. They file a joint return as Mary and Richard Brown (primary and secondary switch positions on the return).
- C. Richard Brown files a refund return separately from Mary.
- D. Richard Brown files a joint return as the primary taxpayer with a new secondary taxpayer.
- E. Mary Brown files a refund return separately from Richard.

[5.1] 15.9.2 (03-15-2000)

Offsets into a Business Master File (BMF) Module

1. When a balance due return is filed on the BMF and the credits claimed agree with the credits posted, the module will allow offsets into it.
2. When a balance due return is filed on the BMF and the credits claimed do not agree with the credits posted, a notice is sent from the service center to the taxpayer which shows the total amount of credits posted to the module.

NOTE:

If this notice is sent, offsets are not allowed into the module until the taxpayer has a chance to respond.

- A. Once the notice is sent, offsets will be allowed into the module if
 - + The taxpayer does not respond to the notice within ten cycles, or
 - + The taxpayer acknowledges that the amount is owed.
- B. If the taxpayer says the amount is not owed, treat it like any other payment tracer or adjustment case.

[5.1] 15.9.3 (03-15-2000)

Offsets Out of a BMF Module

1. If there is an overpayment on a BMF module and the credits claimed on the return filed agree with the credits posted, the taxpayer can request the overpayment be transferred to another module with a balance due. Any remaining overpayment will be applied to other balance due modules. If there are no other balance due modules, the overpayment will be refunded.
2. If there is an overpayment on a BMF module and the payments claimed on the return filed do not agree with the amounts credited, a notice is sent from the service center to the taxpayer which shows the amount of credits posted to the module. The notice will,
 - o List all credits posted if there is enough room; otherwise,
 - o Show the total credit.
 - o Ask where the overpayment should be applied.

NOTE:

If this notice is sent, offsets are not allowed out of the module until the taxpayer has a chance to

respond.

- A. Once the notice is sent, offsets will be allowed out of the module if,
 - + The taxpayer does not respond to the notice within ten cycles, or
 - + The taxpayer acknowledges there is an amount owed on another module.
- B. If the taxpayer says where the overpayment should be applied, it will be applied as explained in (1).
- C. If the taxpayer asks for a refund and there are no balance due modules, the overpayment will be refunded.

[5.1] 15.9.6 (03-15-2000)

Selection of Taxpayers for TC 130 Input

1. TDAs should be periodically screened for consideration of input of TC 130 (see LEM 5.3.4). Request input of TC 130 if an overpayment can reasonably be expected as a credit to the outstanding liability before the expiration of the statute.
NOTE:
 - Do not request input of TC 130 if less than six months remains on the collection statute.
2. Inter-district transfer-in TDAs will have TC 130 input by the Service Center Collection Branch (SCCB) when the new TDA is issued.
3. When reporting TDAs currently not collectible or entering into an installment agreement for longer than six months, consider inputting TC 130.
4. Be alert to situations where a taxpayer submits a refund return and the refund would normally be offset within the Master File without a TC 130, but because of timing the refund may be issued. For example,
 - A. Taxpayer submits a refund and a balance due return at the same time. The refund return may post before the balance due return. To prevent the refund from being issued, input TC 130 so the refund will be held until the balance due return posts.
 - B. Taxpayer files a refund return and the refund has not been issued yet. Then the taxpayer files a balance due return. To prevent the refund from being issued, request input of TC 130.
5. If a refund may be issued before assessment of a Trust Fund Recovery Penalty, see IRM 5.7.4.7 regarding use of TC 130.
6. A taxpayer with an outstanding liability may file a refund return with the employee assigned the TDA. If necessary, request input of TC 130 to offset the refund. If the refund will full pay the balance due and the return appears to be prepared correctly, the TDA can be closely by requesting input of TC 470, cc 93.

[5.1] 15.9.7 (03-15-2000)

Preparing Document for Input of TC 130

1. Input of TC 130 can be requested on Form 3177, Notice of Action for Entry on Master File, or on Form 53, Report of Currently Not Collectible Taxes. When a TC 130 is being input as part of reporting accounts currently not collectible, ICS will print out a Form 3177 with information for manual input. The Form 3177 is printed out with the Form 53 after the Group Manager approves the CNC recommendation.
2. All TC 130 and 131 requests must be sent to SCCB to ensure the integrity of the service center file of cross-reference documents. Do not request any other type of input on the same document.
3. The following should be included on all TC 130 input documents:
 - o Form number, tax period, and taxpayer identification number of the cross-referenced liabilities, and
 - o Social security number and name of each taxpayer responsible for any joint liability. Be sure the TC 130 is input on the primary number if a joint return is filed.
4. If a TC 000 with mail filing requirements of 3 is being input to establish a taxpayer on the master file, include the taxpayer's last known address on the TC 000 input document. See IRM 5.1.15.9.4.

[5.1] 15.9.8 (03-15-2000)

Receipt of CP 44 and CP 188 in Area Office

1. After offset within the Master File, Master File entities containing a TC 130 are frozen from refunding. A CP 44 for IMF cases or a CP 188 for BMF cases is generated when a frozen credit is available.
2. Non Master File Liability (NMFL) transcripts are generated when a second credit posts to a module after a CP 44 or a CP 188 is issued and the frozen credit condition is unreversed. A TC 740 causes a transcript to be generated, but a CP 44 or a CP 188 is not issued.
3. SCCB processes all CP 44 and CP 188 notices and NMFL transcripts.
4. The notice indicates that a refund credit is available for offset against a "130 case" and serves as a turnaround document informing SCCB where to apply the overpayment.
5. Parts 2 and 3 of CP 44/188 and NMFL transcripts are sent to Special Procedures function each week with Form 3210, Document Transmittal. Use Part 2 of the CP 44/188 or the NMFL transcript to request transfer of the credit, to notify SCCB to release the frozen credit, or to request input of TC 131.
6. Parts 2 and 3 of the CP 44/188 and the NFML transcripts must be returned to SCCB on Form 3210.

[5.1] 15.9.9 (03-15-2000)

Input of Release on Entity Freeze

1. Use Form 3177 with a TC 131 in the "Other" block to release the TC 130 freeze when:

- A. The liability is paid or abated in full before receipt of CP 44, 188, or NMFL transcript, or
 - B. The liability is closed by an adjustment (TC 470, cc 90)
2. If a TC 130 was input in anticipation of assessing a Trust Fund Recovery Penalty (TRFP) (see IRM 5.7.4.7), request input of TC 131 if,
 - A. The recommendation to assess the TFRP is rejected,
 - B. The penalty is not assessed within two weeks after SCCB contacts the revenue officer about a refund that has been frozen, or
 - C. The TFRP is assessed, unless it is assessed against a person who files as a secondary taxpayer and the spouse is not assessed then overpayments will be refunded if a TC 130 is not present.
 3. Explain why TC 131 is being requested on Form 3177 and record the date and reason in the case history
 4. Send Form 3177 requesting input of TC 131 to SCCB on Form 3210.

Chapter 17 -- Third Party Contacts

[5.1] 17.1 (04-26-2000)

General Information

1. The provisions of IRC 6103 and corresponding regulations apply to all third party contacts.
2. For third party contacts made for the purpose of collecting or determining a tax liability, IRC 7602(c) requires the IRS to:
 1. Provide advance notice to the taxpayer that third party contacts may be made,
 2. Periodically provide a list of all third party contacts to the taxpayer, and
 3. Provide a list of third party contacts to the taxpayer upon request.

NOTE:

Any tax period under investigation by Criminal Investigation Division (CID) is not subject to the requirements of IRC 7602(c). A criminal investigation is initiated when an administrative referral based on a firm indication of fraud is made to CID. Third party contacts to develop the referral are contacts under IRC 7602(c).

[5.1] 17.2 (04-26-2000)

Third Party Contacts

1. For the purposes of IRC 7602(c), a third party contact has been made when an IRS employee initiates contact with a person other than the taxpayer and asks questions about a specific taxpayer with respect to that taxpayer's federal tax liability, including the issuance of a levy or summons to someone other than the taxpayer.
2. Generally, IRS employees will identify themselves when

attempting to obtain information from third parties. However, in the limited situation where an IRS employee attempts to reach a taxpayer by telephone, but instead reaches the taxpayer's secretary, family member or another third party and the IRS employee does not seek any information from the person answering the telephone, the IRS employee should not tell the third party that he works for the IRS unless expressly asked by the third party. Employees can only seek additional information from the person answering the telephone if the appropriate Letter 3164 has been issued to the taxpayer, the employee identifies himself as an IRS employee, and treats the telephone conversation as a third party contact. If the appropriate Letter 3164 has not been issued to the taxpayer prior to the telephone call, employees should not seek additional information or identify themselves as IRS employees unless expressly asked.

3. The following are not third party contacts:
 - A. Searches made on computer databases that do not require any personal involvement on the other end (e.g., LEXIS, Information America).
 - B. Contacts made with government officials to obtain information that is available to the public, i.e., contacting the Postal Service to obtain a taxpayer's current address.
 - C. Information received from a third party where the third party initiated the contact.
 - D. Information received pursuant to routine or spontaneous exchanges from a foreign country pursuant to an exchange of information clause in a tax convention between the United States and that foreign country or from a United States possession pursuant to an exchange of information clause in a tax coordinating agreement between the United States and that possession.
 - E. Information that the United States exchanges in routine or spontaneous exchange programs with a foreign country pursuant to an exchange of information clause in a tax convention between the United States and that foreign country or with a United States possession pursuant to an exchange of information clause in a coordinating agreement between the United States and that possession.
 - F. Exchanges of information via tape programs, e.g. State Income Tax Levy Program and Federal Payment Levy Program.
 - G. Contacts with individuals who have a valid Power of Attorney for the taxpayer.
 - H. Contacts made by the Service to respond to a request from a treaty partner for information concerning a taxpayer and tax liability of the treaty partner.
 - I. Contacts made to obtain information regarding an industry or market segment where specific taxpayers have not been identified.
 - J. Contacts made by Service employees during litigation if the contact relates to a matter and issue being litigated, including, but not limited to, service of Tax Court subpoenas on third parties by employees.

- K. Contacts made with other Service employees in the scope of an employee's official duties, including employees of the Office of Chief Counsel.
- L. Contacts made as the result of unsolicited requests for a payoff of a Notice of Federal Tax Lien or to respond to requests for information regarding the priority of a lien (disclosure laws do apply).
- M. When the taxpayer under investigation is a business, contacts made with employees who are acting within the scope of their employment.
- N. Contacts made with third parties to collect taxes for another country as part of a Mutual Collection Assistance Agreement.

[5.1] 17.3 (04-26-2000)

Before Contact

1. It is the Service's policy to obtain information relating to a liability or collectibility determination directly from the taxpayer whenever possible. Situations will arise when the Service must contact third parties to complete an investigation. IRS employees may not contact any third parties without first providing reasonable notice to the taxpayer that contacts with persons other than the taxpayer may be made. IRS employees must review the case file to determine if the taxpayer has received the required notification.

[5.1] 17.3.1 (04-26-2000)

Notification Requirements

1. If the employee has determined that the taxpayer has not received the required advance notification, these procedures should be followed:
 - A. Prepare the appropriate Letter 3164.
 - B. Include the employee identification number and telephone number on the letter.
 - C. Hand carry or mail the letter to the taxpayer.
 - D. Document the case file with the date of the letter and the method of delivery.
 - E. Retain a copy of the letter in the case file.
 - F. Provide a copy of the letter to the POA.

CAUTION:

 - + If the tax liability is due to a jointly filed return, a separate Letter 3164 must be provided to each spouse
 - + If Letter 3164 was mailed, do not make any third party contact until 10 days from the date the letter was mailed
 - + If Letter 3164 was hand delivered, contact can begin immediately, but the taxpayer should be given the opportunity to provide the information before third parties are contacted.
2. Three versions of Letter 3164 are available for use by Collection employees.
 - A. Letter 3164 A(DO) for Trust Fund Recovery Penalty

- investigations
 - B. Letter 3164 B(DO) for balance due investigations and FTD Alerts
 - C. Letter 3164 C (DO) for delinquent return investigations.
3. If a new tax period opens up and third party contacts will be made with respect to this period and the taxpayer has not received the appropriate Letter 3164 within the last 12 months, then a new Letter 3164 must be issued.
- NOTE:
- If the taxpayer received a Notice 504 after February 2000, Notice 1219 B was included as a stuffer. If the taxpayer received a Notice 518 after February 2000, Notice 1219 A was included as a stuffer. The Notices 1219 A & B replace Letter 3164 for Collection work ONLY.
4. When preparing a suit recommendation, the narrative report should include the date the appropriate Letter 3164 was issued.

[5.1] 17.4 (04-26-2000)

Providing Taxpayer with Notice of Third Party Contact

1. Pursuant to IRC 7602(c)(2) the Service is required to:
 - A. Provide the taxpayer with a list of all third party contacts periodically and
 - B. Provide a list of third party contacts when requested by the taxpayer.

[5.1] 17.5 (04-26-2000)

Recording Third Party Contacts

1. Each identifiable third party contact should be recorded on a Form 12175. Instructions for completion of the Form 12175 are on the reverse of the form. Because Form 12175 is the source of the third party contact list provided to the taxpayer, the appropriate identification of the third party is important.
 - A. For Trust Fund Recovery Penalty investigations, a separate Form 12175 must be completed for the business and each potentially responsible person. Use MFT 55 for the potentially responsible person and the business tax periods that would be included in the assessment.
 - B. Multiple contacts with the same third party on different dates require a separate Form 12175 for each contact.
 - C. Multiple contacts with the same third party on the same day by the same employee requires completion of one Form 12175.
2. When Form 12175 is completed:
 - A. Send to the District/Service Center Third Party Contact Coordinator daily or as soon as possible after it is completed
 - B. Associate a copy with the case file, and
 - C. Document case history to show action taken.

3. The Integrated Collection System (ICS) will systemically generate third party contact data and update the Third Party Contact Command Code database. Usually, the Form 12175 will not need to be completed. However, ICS employees may need to complete a Form 12175 for certain Trust Fund Recovery Penalty third party contacts and Other Investigation third party contacts.

NOTE:

See section 17.2 of this chapter for examples of what is not considered a third party contact

[5.1] 17.6 (04-26-2000)

District/Service Center Third Party Contact Coordinator

1. The Third Party Contact Coordinator is responsible for:
 - A. Reviewing the Form 12175 to make sure that all appropriate fields are completed
 - B. Returning any forms that are incomplete, inaccurate, or unclear to the originator for clarification
 - C. Maintaining Forms 12175
 - D. Entering the data from Forms 12175 into the third party contact command code database
 - E. Responding to requests from taxpayers for a list of third party contacts
 - F. Preparing Letter 3173 (DO), including the taxpayer's list of third party contacts, and mailing it to the taxpayer
 - G. Providing guidance regarding IRC 7602(c) Third Party Contact procedures to employees in their District Office or Service Center

[5.1] 17.7 (04-26-2000)

Providing Taxpayers with Third Party Contact List

1. A taxpayer can request a list of third party contacts at any time. The request can be oral or written.
2. If the request is received in person or by telephone, the employee is responsible for:
 - A. Obtaining the taxpayer's name, address, and TIN
 - B. Advising the taxpayer they should receive the third party contact list by mail within 10 days
 - C. Forwarding the taxpayer's name, address, and TIN to the third party contact coordinator immediately
3. If the request is received by mail, the employee is responsible for forwarding the taxpayer's request to the third party contact coordinator immediately.
4. Taxpayers must submit a separate request for each list of contacts. A blanket request for a list of future contacts will not be accepted.
5. The Third Party Contact Coordinator will research the request, prepare and mail Letter 3173 (DO).
6. Letter 3173 (DO) will list all third party contacts
 - A. Made after January 18, 1999, or
 - B. Made since the taxpayer received the latest periodic report of third party contacts.

[5.1] 17.8 (04-26-2000)

Exceptions to IRC 7602(c) Requirements

1. IRC 7602(c)(3) provides for four situations when the IRS is not required to give the taxpayer advance general notice or to include a particular third party contact on the list of third party contacts that we provide to the taxpayer. The exceptions are:
 - o Taxpayer authorizes third party contact
 - o Jeopardy
 - o Reprisal, or
 - o Pending criminal investigation

[5.1] 17.8.1 (04-26-2000)

Taxpayer Authorized Contact

1. Section 7602(c) does not apply to any contacts that the taxpayer has authorized. The authorization can be oral or in writing. Document the case file to reflect the date and method used to authorize the contact.
2. Form 12180, Third Party Contact Authorization Form can be used to document the taxpayer's authorization. Although taxpayers may give oral authorization, the best practice is to complete the Form 12180.

NOTE:

- Section 7602(c)(3) (A) does not require an IRS employee to obtain authorization from the taxpayer in order to contact a third party. IRS employees are not prohibited from making a third party contact if the taxpayer has not authorized it. The taxpayer may not prevent an IRS employee from contacting a third party by refusing to provide authorization. In some situations, it may be more practical to ensure that the advance notice has been provided to the taxpayer and to record the contact.
3. If the taxpayer authorizes a third party contact, the IRS employee is not required to provide the advance general notice (if not already provided) or record the contact. If contacts will be made with other third parties and the taxpayer authorization has not been obtained for these contacts, the advance notice must be provided and a record of these contacts must be kept.
 4. If written authorization is obtained:
 - A. Prepare a Form 12180 listing each authorized contact. More than one third party can be listed on the form. Blanket authorizations are not acceptable.
 - B. Secure the taxpayer's signature (for joint filing, both spouses must sign). If a Power of Attorney or an authorized representative authorizes the third party contact(s), they must sign and date the Form 12180.
 - C. Keep the signed Form 12180 in the case file. Continue to document the case file with routine case actions.
 - D. Do not send a Letter 3164 nor complete a Form 12175 for contacts the taxpayer has authorized

[5.1] 17.8.2 (04-26-2000)

Jeopardy

1. The employee making a third party contact may determine that providing the taxpayer with the advance general notice or a record of a specific contact would jeopardize the collection of any tax liability.
 2. If a jeopardy situation exists, take the following actions:
 - A. Document the case file with specific information about the third party contact
 - B. Document the case file with the basis for the jeopardy determination
 - C. Complete Form 12175, but do not forward it to the Third Party Contact Coordinator.
 3. When the jeopardy situation no longer exists, forward Form 12175 to the coordinator. If additional contacts will be made, the employee will also send the appropriate Letter 3164 if it has not already been provided to the taxpayer.
- NOTE:

Jeopardy may apply to any type of tax.

[5.1] 17.8.3 (04-26-2000)

Reprisal

1. If an IRS employee determines that providing the advance notice or a record of a specific contact to a taxpayer may result in a reprisal against any person, then the following actions should be taken:
 - A. Complete a separate Form 12175 to report the contact. Include the taxpayer's TIN and name control, the employee number, the date of the contact, and check the reprisal box.
 - B. No third party information should be included on the form.
 - C. Send the Form 12175 to the third party contact coordinator for input to the database. The information on Form 12175 will be retained in the database, but will not be included in the list of persons contacted (Letter 3173) that is provided to the taxpayer.
2. The employee making the contact must make a reprisal determination for all third party contacts. The determination must be made on a case-by-case basis with no blanket determinations for different types of contact.
3. A reprisal determination may be based on any information available to the employee.
4. Employees must document the case file with the facts surrounding the reprisal determination.

[5.1] 17.8.4 (04-26-2000)

Employee Determinations

1. In some situations, a determination can be made, based on case history, that a person could be subject to reprisal if the taxpayer received the advance notice or notice of a

particular third party contact. In these situations, sending the advance notice or notice of a particular contact is not required if doing so may result in reprisal against any person.

2. A PDT indicator alone is not a sufficient basis for determining that sending the advance notice may result in reprisal against any person. However, the employee may be aware of other facts in a particular case from which a determination can be made that sending the advance notice may result in reprisal. A PDT indicator may be a basis for determining that providing notice of a particular third party contact may result in reprisal.
3. If the determination cannot be made based upon the facts already known, advise the third party that by law the IRS is required to provide their name to the taxpayer as a third party contact and ask if there is a fear of reprisal.
4. Make sure the third party understands that their name will be provided to the taxpayer on a list of third parties contacted, but do not make the reprisal inquiry in a way that would influence the third party. The following suggested language may be used as part of direct third party contact:

"By law I am required to include your name on a list of parties we have contacted. This list is sent at least once a year to (state taxpayer's name). If you believe that including your name on the list may result in reprisal against any person, we can exclude you from the list.
Do you have any reason to believe that reprisal against any person may occur?"
5. If the third party indicates no reprisal concerns, complete Form 12175 and forward it to the Third Party Contact Coordinator.
6. If the third party does indicate fear of reprisal, document the case file, and prepare Form 12175 as outlined above. Any concern raised by the third party with respect to reprisal will be taken at face value. Do not question any third party claims to reprisal.
7. If a letter is sent to an individual third party, include the first part of the suggested language above and add the following:

"If you have any reason to believe that reprisal against any person may occur, you should call me at the telephone number listed above by (insert a date that is 10 calendar days from the day the letter is mailed).

NOTE:

It is not necessary to include the reprisal script when a form letter is mailed to a business entity.
8. Complete Form 12175, but do not forward it to the Third Party Contact Coordinator until after 10 calendar days have passed. If no fear of reprisal is communicated, then forward the Form 12175 to the coordinator.
9. If the third party does claim fear of reprisal,

- A. Document the case file
 - B. Replace Form 12175 with a new form to reflect the reprisal determination
 - C. Forward the new form to the coordinator
10. If the third party initially indicates no fear of reprisal and later advises there is fear of reprisal, immediately contact the Third Party Contact Coordinator and advise them of the situation. Prepare a new Form 12175, as outlined above, and submit it to the coordinator. Put a copy of the new Form 12175 at the beginning of the case file. Do not remove the previously completed Form 12175 from the case file. Attach the copy of the previously completed Form 12175 to the copy of the new Form 12175.
11. Do not provide information to any persons that may result in the taxpayer learning the identity of a third party who has indicated a fear of reprisal. This information may be provided to Service employees acting within the scope of their duties, including employees of the Office of Chief Counsel.